

**A
COLLECTION
OF
STATUTES RELATING TO INDIA
IN TWO VOLUMES.**

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A
COLLECTION
OF
STATUTES RELATING TO INDIA

IN TWO VOLUMES.

VOL. I

UP TO THE END OF 1870.



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PREFACE.

A *Collection of the Statutes relating to India* was published in two volumes by Mr. Whitley Stokes eighteen years ago, and the supplemental volume, which appeared after a short interval, ends with the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69). Since then some seventy new Statutes affecting India have been passed by Parliament; a number of those extant in 1881 have been repealed, while many have been substantially amended; and nearly all have been affected by the various Statute Law Revision Acts recently passed. A cursory examination of the first volume shows clearly how completely the publication is out of date. It contains seventy-five Statutes passed between 1726 and 1855. Of this number, twenty-two have been wholly repealed, and of the remaining fifty-three only two appear to be intact, all the others having been altered by partial repeals or amendments. The necessity for a new edition is, therefore, obvious.

2. The volume now published contains the Statutes down to the end of 1870, and the contents are based on the latest issue of the *Statutes Revised*. It has to some extent been prepared on the same lines as the edition of 1881, but a certain number of alterations have been made, and these are explained in the following paragraphs.

3. The short titles given to the older Statutes by the Short Titles Act, 1896 (59 & 60 Vict., c. 14), have been inserted.

4. The edition of 1881 includes 35 Statutes which were passed before 1726 and are of possible application to the Presidency-towns and Rangoon, where European British subjects, at any rate, are to a certain (or uncertain) extent governed by English law so far as applicable to a British settlement. Several of them, however, have been repealed by either imperial or local legislation: two or three have been judicially held to be inapplicable to India: some relate to the succession to the Crown and seem out of place in an Indian collection, for India is an integral part of the British Empire and must follow the fortunes of the

Empire as a whole: and, with three exceptions, the remainder (including such Statutes as *De Donis* and *Quia Emptores*) may be regarded as the historical foundation of common law rules and are misleading when taken by themselves. The three exceptional Statutes referred to above are 10 Will. 3, c. 22, 11 Will. 3, c. 12, and 7 Anne, c. 5, and these alone have been reproduced in this edition, all the others having, under the circumstances, been omitted.

5. Some of the older enactments relating to India have been repealed by Statute Law Revision Acts only as regards the United Kingdom. Most of these have been excluded, with notes explaining that they are obsolete or inapplicable to India, and an early opportunity for repealing them, where possible*, by express legislation in India will probably be taken. Where it is stated that an enactment has been repealed by an Act of Parliament, it is to be understood that the repeal extends, expressly or by necessary implication, to India, or that the enactment repealed never had any application to India: where in any other case the extent of the repeal is limited, the fact is indicated.

6. Statutes passed before 1861, which have been locally repealed in India, have likewise been omitted, the repealing Act being in each case cited *in loco*.

7. The Chronological Table prefixed to the volume follows the English *Chronological Tables*, and not the tables prefixed to the *Statutes Revised*: in other words, the repeals are indicated in it in detail.

8. A few foot-notes have been inserted, and at the end of the volume will be found a list of Acts of Parliament affected by Indian legislation, a note and statement regarding the extent of the various Statute Law Revision Acts passed, and also an index.

H. W. C. CARNDUFF,

SIMLA;

} *Depy. Secy. to the Govt. of India,*

The 1st October, 1899.

} *Legislative Department.*

* In some cases it will be found impossible so to extend a repeal. Thus s. 1 of the Government of India Act, 1854 (17 & 18 Vict., c. 77) was repealed as to the United Kingdom only by the Statute Law Revision Act, 1892 (55 & 56 Vict., c. 19). But the Act of 1854 is one of those Statutes which cannot—see the Indian Councils Act, 1861 (24 & 25 Vict., c. 67), s. 22—be affected by legislation in India.

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CHRONOLOGICAL TABLE OF THE STATUTES RELATING TO INDIA.

VOLUME I—UP TO THE END OF 1870.

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1698	10 W. 3, c. 22.	Posthumous children.	S. 2 rep. (U. K.) 30 & 31 Vict., c. 59 (S. L. R.).	See p. 1. Omitted as being spent.
"	11 W. 3, c. 12.	Crime in plantations.	.....	See p. 2.
1701	12 & 13 W. 3, c. 2.	The Act of Settlement.	S. 3 rep. in pt. 4 & 5 Anne, c. 20, ss. 27, 28; 1 Geo. 1, Sess. 2, c. 51; 7 & 8 Vict., c. 66, s. 1.	See p. 2, ss. 1, 2, relating to the succession to the Crown, and s. 4, confirming the laws of the realm, omitted as being applicable to India only as part of the British Empire.
1708	7 Anne, c. 5	The Foreign Protestants Naturalization Act, 1708.	Whole, except part of s. 3, rep. 10 Anne, c. 9.	See p. 3.
1730	4 Geo. 2, c. 21.	The British Nationality Act, 1730.	S. 3 rep. (U. K.) 30 & 31 Vict., c. 59 (S. L. R.)	See p. 4. Omitted as being partly spent and partly inapplicable to India.
1770	10 Geo. 3, c. 47.	The East India Company Act, 1770.	S. 1 rep. 33 Geo. 3, c. 52, s. 146. S. 3 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 5 rep. (U. K.) 56 & 57 Vict., c. 61. S. 6 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 7 rep. (U. K.) 56 & 57 Vict., c. 61.	See p. 5. Omitted as being obsolete and inapplicable to India. Omitted as being inapplicable to India. Reproduced with note. Omitted as being inapplicable to India.
1772	13 Geo. 3, c. 21.	The British Nationality Act, 1772.	S. 3 rep. 34 & 35 Vict., c. 48.	See p. 7.
"	" 63. " c.	The East India Company Act, 1772.	Ss. 1—6, 11 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 12 rep. 55 & 56 Vict., c. 19 (S. L. R.)	See p. 8. Omitted as being obsolete and inapplicable to India.

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnat No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1772	13 Geo. 3, c. 63— <i>contd.</i>	.....	<p>S. 16 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 18 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) VI of 1874.</p> <p>S. 19 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 20 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>Ss. 21 & 22 rep. (U. K.) 50 & 51 Vict., c. 59, (S. L. R.)</p> <p>S. 26 rep. 21 Geo. 3, Sess. 2, c. 25, s. 47, and 33 Geo. 3, c. 52, s. 146.</p> <p>Ss. 27—29 rep. Geo. 3, Sess. 2, c. 25, s. 47, and 33 Geo. 3, c. 52, s. 146; rep. also (B. I.) XIV of 1870.</p> <p>S. 30 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) XXVIII of 1855.</p> <p>S. 31 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 32 rep. 33 Geo. 3, c. 52, s. 146.</p> <p>S. 33 rep. (B. I.) XIV of 1870.</p> <p>S. 34 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) X of 1875.</p> <p>S. 35 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.)</p> <p>S. 36 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 38 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) X of 1882.</p> <p>S. 46 rep. 55 & 56 Vict., c. 19 (S. L. R.)</p> <p>S. 47 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.)</p>	<p>Omitted as being obsolete.</p> <p>Omitted as being inapplicable to India.</p> <p>Reproduced with note.</p>

V
Chronological Table.

STATUTES RELATING TO INDIA—*continued.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1780	21 Geo. 3, c. 70.	The East India Company Act, 1780.	..... Ss. 9—16, 19—26, rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870. Ss. 27, 28 rep. 35 & 36 Vict., c. 63 (S. L. R.)	See p. 17.
1784	24 Geo. 3, Sess. 2, c. 25.	The East India Company Act, 1784.	Ss. 1—63 rep. 35 & 36 Vict., c. 63 (S. L. R.) S. 84 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 85 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.)	See p. 21. Omitted as being spent. Reproduced with note.
1786	26 Geo. 3, c. 57.	The East India Company Act, 1786.	..... S. 29 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XI of 1872. S. 30 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 31 rep. 35 & 36 Vict., c. 63 (S. L. R.) Ss. 32—35 rep. 33 Geo. 3 c. 52, s. 146. Ss. 36, 37, rep. 35 & 36 Vict., c. 63 (S. L. R.) S. 38 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) I of 1872. S. 39 rep. 55 & 56 Vict., c. 19 (S. L. R.)	See p. 31.
"	" " c. 62.	The East India Company (Money) Act, 1786.	.....	Omitted as being probably spent.
1788	28 Geo. 3, c. 29.	The East India Company (Money) Act, 1788.	.....	Ditto.
1789	29 Geo. 3, c. 65.	The East India Company (Money) Act, 1789.	.....	Ditto.
1791	31 Geo. 3, c. 11.	The East India Company (Money) Act, 1791.	.....	Ditto.
1793	33 Geo. 3, c. 47.	The East India Company (Money) Act, 1793.	.....	Ditto.

*Chronological Table.*STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1793	33 Geo. 3, c. 52.	The East India Company Act, 1793.	..... Rep. in pt. 24 & 25 Vict., c. 54, s. 7; mod. XI of 1876, s. 66. Ss. 1—18 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 20 am. 53 Geo. 3, c. 155, s. 74. Ss. 21, 23 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) Ss. 24, 25, rep. in pt. 56 & 57 Vict., c. 62. S. 25 rep. in pt. 56 & 57 Vict., c. 62. S. 26 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 28 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) XII of 1873. S. 32 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.); and 56 & 57 Vict., c. 62. S. 39 mod. (B. I.) II of 1834. S. 56 rep. 24 & 25 Vict., c. 54, s. 7. S. 58 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) Ss. 59, 60 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 61 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) XIV of 1870. S. 67 rep. (B. I.) XI of 1872. Ss. 68, 69 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.) S. 70, mod. 53 Geo. 3, c. 155, s. 84. Ss. 71—136, 138, 139 rep. 35 & 36 Vict., c. 63 (S. L. R.) S. 140 rep. Act XIV of 1870. Ss. 142—150 rep. 35 & 36 Vict., c. 63 (S. L. R.)	See p. 49. Omitted as being inapplicable to India. Ditto. Ditto. Reproduced, but should probably be repealed as to B. I. Omitted as being inapplicable to India. Reproduced as not having been repealed as to U. K. Omitted as being spent or inapplicable to India.

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1793	33 Geo. 3, c. 52— <i>contd.</i>	.....	<p>S. 151 rep. (U. K.) 47 Geo. 3, Sess. 2, c. 68, s. 6; rep. also (B. I.) II of 1869.</p> <p>S. 152 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) II of 1869.</p> <p>Ss. 153, 154 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) X of 1875.</p> <p>S. 155 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 157 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) IV of 1871.</p> <p>S. 158 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.)</p> <p>S. 159 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 160 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.)</p> <p>S. 161 rep. (U. K.) 4 & 5 W. 4, c. 33.</p> <p>S. 162 rep. (B. I.) IX of 1871.</p> <p>S. 163 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.)</p> <p>Mod. (B. I.) XI of 1876.</p>	<p>Omitted as being inapplicable to India</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p>
1794	34 Geo. 3, c. 41.	The East India Company (Money) Act, 1794.	.....	See p. 70. Certain bonds create under this Statute are understood to be still outstanding
1797	37 Geo. 3, c. 142.	The East India Company Act, 1797.	<p>S. 1 rep. 55 & 56 Vict., c. 19 (S. L. R.)</p> <p>S. 2 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.)</p> <p>S. 3 rep. 55 & 56 Vict., c. 19 (S. L. R.)</p> <p>Ss. 4-8 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>Ss. 9, 10 rep. 55 & 56 Vict., c. 19 (S. L. R.)</p> <p>S. 15 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870.</p>	See p 72.

*Chronological Table.***STATUTES RELATING TO INDIA—*contd.***

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1797	37 Geo. 3, c. 142— <i>contd.</i>	.....	S. 16 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) VI of 1874. Ss. 17—26, 30 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870.	
1800	39 & 40 Geo. 3, c. 79.	The Government of India Act, 1800.	..... S. 4 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870. S. 5 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.) S. 6 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870. S. 8 rep. (B. I.) XIV of 1870. Ss. 10, 11 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870. S. 12 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.) Ss. 13—16 rep. 9 Geo. 4, c. 74, s. 126. Ss. 17—19, 21—24 rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also (B. I.) XIV of 1870. S. 25 rep. 57 & 58 Vict., c. 39, s. 5	See p. 77.
1802	42 Geo. 3, c. 85.	The Criminal Jurisdiction Act, 1802.	S. 6 rep. in pt. (U. K.) 55 & 56 Vict., c. 61, s. 2; rep. also (B. I.) XII of 1873.	See p. 81.
1809	49 Geo. 3, c. 126.	The Sale of Offices Act, 1809.	..... Ss. 7, 8 rep. (U. K.) 35 & 36 Vict., c. 97 (S. L. R.) S. 12 rep. (U. K.) 35 & 36 Vict., c. 97 (S. L. R.) S. 15 rep. (U. K.) 35 & 36 Vict., c. 97 (S. L. R.)	See p. 86. Omitted as being obsolete and inapplicable to India. Omitted as being inapplicable to India and also spent. Omitted as being spent.
1811	51 Geo. 3, c. 64.	The East India Company Bonds Act, 1811.	..... Ss. 1—3 rep. 36 & 37 Vict., c. 91 (S. L. R.) S. 5 rep. (U. K.) 50 & 51 Vict., c. 59 (S. L. R.)	See p. 92. Reproduced with note.

*Chronological Table.***STATUTES RELATING TO INDIA—contd.**

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1812	52 Geo. 3, c. 156.	The Prisoners of War (Escape) Act, 1812.	.....	See p. 93.
1813	53 Geo. 3, c. 155.	The East India Company Act, 1813.	<p>Ss. 1—32, 33—39, 40, 41, 44—48, 54—78, 80, 81, 83, 87, 88 rep. 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 89 rep. in pt. 41 & 42 Vict., c. 79 (S. L. R.)</p> <p>Ss. 90—92, 95 rep. 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 97 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) XII of 1873.</p> <p>Ss. 98 & 99 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>Ss. 100—103 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) X of 1895.</p> <p>S. 104 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 105 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) X of 1882.</p> <p>S. 106 rep. 53 & 54 Vict., c. 33 (S. L. R.)</p> <p>S. 107 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) XI of 1836.</p> <p>Ss. 108, 109 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>S. 110 rep. 53 & 54 Vict., c. 33 (S. L. R.)</p> <p>S. 112 rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also (B. I.) II of 1869.</p> <p>S. 113 rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also (B. I.) XIV of 1870.</p> <p>Ss. 114—120 rep. 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 121 rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also (B. I.) XII of 1873.</p>	See p. 95.

Chronological Tables.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1813	53 Geo. 3, c. 155— <i>contd.</i>	.....	S. 122 rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also (B. I.) XIV of 1870. S. 123 rep. 37 & 38 Vict., c. 35 (S. L. R.); rep. also (B. I.) XII of 1873. S. 124 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) IX of 1871.	
1815	55 Geo. 3, c. 84.	The Indian Presidency Towns Act, 1815.	..... Ss. 2—9 rep. 36 & 37 Vict., c. 91 (S. L. R.)	See p. 106.
1819	59 Geo. 3, c. 60.	The Ordination for Colonies Act, 1819	..... Ss. 2—5 rep. 37 & 38 Vict., c. 77. S. 6, rep. 36 & 37 Vict., c. 91 (S. L. R.)	See p. 107.
1820	1 Geo. 4, c. 101.	The Divorce Bills Evidence Act, 1820.	.....	See p. 108.
1823	4 Geo. 4, c. 71.	The Indian Bishops and Courts Act, 1823.	..... Ss. 1, 2 rep. 36 & 37 Vict., c. 91 (S. L. R.) S. 3, rep. in pt. 43 Vict., c. 3, s. 5. Ss. 8—10 rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also (B. I.) XIV of 1870. Ss. 12, 13 rep. 53 & 54 Vict., c. 33 (S. L. R.) Ss. 14—16 rep. 36 & 37 Vict., c. 91 (S. L. R.); s. 14 rep. also (B. I.) XIV of 1870. S. 18 rep. 36 & 37 Vict., c. 91 (S. L. R.)	See p. 110.
"	" " c. 80.	The Lascars Act, 1823.	..... Ss. 1—24 rep. 36 & 37 Vict., c. 91 (S. L. R.) S. 27 rep. 57 & 58 Vict., c. 60. Ss. 29 rep. (U. K.) 54 & 55 Vict., c. 67. S. 30 rep. as to England, 47 & 48 Vict., c. 43; rep. (U. K.) 54 & 55 Vict., c. 67.	See p. 113. Omitted as being inapplicable to India. Ditto.

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1823	4 Geo.—4.c. 80— <i>contd.</i>	...	S. 33 rep. (U. K.) 56 & 57 Vict., c. 61. S. 28 rep. 57 & 58 Vict., c. 60. S. 34 rep. 57 & 58 Vict., c. 60.	Omitted as being obsolete.
1824	5 Geo. 4, c. 113.	The Slave Trade Act, 1824.	..... S. I. rep. 36 & 37 Vict., c. 88, s. 30. Ss. 13—38, 41—46 and 48—82 rep. 36 & 37 Vict., c. 88, s. 30.	See p. 116.
1825	6 Geo. 4, c. 78.	The Quarantine Act, 1825.	..... S. I. rep. 36 & 37 Vict., c. 91 (S. L. R.) S. 37 rep. (U. K.) 56 & 57 Vict., c. 61.	See p. 123. Omitted as being inapplicable to India.
„	6 Geo. 4, c. 85.	The Indian Salaries and Pensions Act, 1825.	..... The whole Act, except ss. 4, 5 & 15 rep. 53 & 54 Vict., c. 33 (S. L. R.) S. 5 rep. in pt. 41 & 42 Vict., c. 79 (S. L. R.) S. 6 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) XIV of 1870.	See p. 142.
1826	7 Geo. 4, c. 56.	The East India Officers' Act, 1826.	..... Whole, except s. 3 rep. 36 & 37 Vict., c. 91 (S. L. R.)	See p. 141.
1828	9 Geo. 4, c. 74.	The Criminal Law (India) Act, 1828.	..... Whole, except portions of ss. 1, 7, 8, 9, 25, 26 & 56 rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also (B. I.) X of 1875. S. 110 rep. except so far as in force in the Straits Settlements, 53 & 54 Vict., c. 33 (S. L. R.)	See p. 145.
1830	11 Geo. 4, and 1 Will. 4, c. 46.	The Illusory Appointments Act, 1830.	Ext. (B. I.) XXIV of 1841.	See p. 147.
„	11 Geo. 4, and 1 Will. 4, c. 47.	The Debts Recovery Act.	Ext. (B. I.) XXIV of 1841.	See p. 148.

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1830	11 Geo. 4, and 1 Will. 4, c. 65.	The Infants' Property Act, 1830.	<p>.....</p> <p>So much of this Act as relates to idiots, lunatics and persons of unsound mind or their property, rep., except so far as relates to Ireland, 16 & 17 Vict., c. 70, s. 1; rep. so far as it relates to Ireland, (S. L. R.) Act, 1873.</p> <p>Ext. (B. I.) XXIV of 1841.</p> <p>S. 1 rep. (U. K.) 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 11 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)</p> <p>S. 12 rep. in part 37 & 38 Vict., c. 35 (S. L. R.)</p> <p>S. 13 rep. (U. K.) 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 19 rep. (U. K.) 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 22 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)</p> <p>Ss. 23—25 rep. (U. K.) 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>Ss. 27—30 rep. (U. K.) 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>Ss. 33 & 34 rep. (U. K.) 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 37 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)</p> <p>S. 38 rep. in pt. (S. L. R.) Act, 1874.</p> <p>S. 39 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)</p> <p>Ss. 40—42 rep. (U. K.) 36 & 37 Vict., c. 91 (S. L. R.)</p> <p>S. 43 rep. (U. K.) 37 & 38 Vict. c. 35 (S. L. R.)</p>	<p>Omitted as being spent.</p> <p>Omitted as being inapplicable to India.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p>
"	I Will. 4, c. 4.	The Colonial Offices Act, 1830.	S. 1, rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)	See p. 157. Omitted as being spent.
1831	I Will. 4, c. 22.	The Evidence on Commission Act, 1831.	<p>.....</p> <p>Ss. 3—5, rep. (U. K.) 46 & 47 Vict., c. 49, s. 3; but see s. 7.</p>	<p>See p. 158.</p> <p>Omitted as being obsolete or inapplicable to India.</p>

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regul. No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1831	1 Will. 4, c. 22— <i>contd.</i>	.....	Ss. 8—11 rep. (U. K.) 46 & 47 Vict., c. 42, s. 3; but see s. 7.	Omitted as being obsolete or inapplicable to India.
1832	2 & 3 Will. 4, c. 53.	The Army Prize Money Act, 1832.	S. 1. rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)	See p. 159. Omitted as being spent.
1833	3 & 4 Will. 4, c. 15.	The Dramatic Copyright Act, 1833.	.....	See p. 160.
"	3 & 4 Will. 4, c. 41.	The Judicial Committee Act, 1833.	..... S. 2 rep. 53 & 54 Vict., c. 27, s. 18. Ss. 22 & 25—27 rep. (U. K.) 24 & 25 Vict., c. 101 (S. L. R.) S. 29 rep. (U. K.) 38 & 39 Vict., c. 66 (S. L. R.)	See p. 162. Omitted as being inapplicable to India Ditto.
"	3 & 4 Will. 4, c. 85.	The Government of India Act, 1833.	..... Ss. 3—18 rep. 37 & 38 Vict., c. 35 (S. L. R.) S. 19 rep. 53 & 54 Vict., c. 33 (S. L. R.) Ss. 20—24 rep. 37 & 38 Vict., c. 35 (S. L. R.) Ss. 25—35 rep. 37 & 38 Vict., c. 35 (S. L. R.) S. 37 rep. 37—38 Vict., c. 35 (S. L. R.) S. 40 rep. 24 & 25 Vict., c. 67, s. 2. Ss. 41 & 42 rep. 37 & 38 Vict., c. 35 (S. L. R.) Ss. 43 & 44 rep. 24 & 25 Vict., c. 67, s. 2. S. 49 rep. 33 & 34 Vict., c. 3, s. 4. S. 50 rep. 24 & 25 Vict., c. 67, s. 2. Ss. 53—55, 58 & 60 rep. 37 & 38 Vict., c. 35 (S. L. R.) S. 61 rep. in pt. 24 & 25 Vict., c. 67, s. 2. S. 63 rep. in pt. 56 & 57 Vict., c. 62, s. 2. S. 64 rep. 53 & 54 Vict., c. 33 (S. L. R.) S. 66 rep. 24 & 25 Vict., c. 67, s. 2. S. 69 rep. 53 & 54 Vict., c. 33 (S. L. R.)	See p. 170.

Chronological Table.

STATUTES RELATING TO INDIA--*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1833	3 & 4 Will. 4. c. 85 — <i>contd.</i>	.....	S. 70 rep. 24 & 25 Vict., c. 67, s. 2. S. 72 rep. 37 & 38 Vict., c. 35 (S. L. R.) Ss. 81—83 rep. 53 & 54 Vict., c. 33 (S. L. R.) S. 85 rep. 53 & 54 Vict., c. 33 (S. L. R.) S. 88 rep. (U. K.) 51 & 52 Vict., c. 57 (S. L. R.). S. 91 rep. 43 Vict., c. 3, s. 5. S. 95 rep. 53 & 54 Vict., c 33 (S. L. R.) Ss. 103—107 rep. 16 & 17 Vict., c. 95, s. 36. Ss. 108—111 rep. 37 & 38 Vict., c. 35 (S. L. R.) Ss. 113—117 rep. 37 & 38 Vict., c. 35 (S. L. R.)	Omitted as being obsolete.
1834	4 & 5 Will. 4, c. 34.	The Superannua- tion Act, 1834.	Ss. 1—5 Ss. 1—5 rep. 32 & 33 Vict., c. 60, s. 9. S. 7 rep. 32 & 33 Vict., c. 60, s. 9. S. 8 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.) Ss. 10 & 11 rep. 22 Vict., c. 25, s. 1. Ss. 13—15 rep. 22 Vict., c. 26, s. 1. S. 16 rep. 50 & 51 Vict., c. 67, s. 14. Ss. 17, 19 & 24 rep. 22 Vict., c. 23, s. 1. S. 27 rep. 20 & 21 Vict., c. 37. S. 29 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.) S. 31 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)	See p. 183. Omitted as being inapplicable to India. Omitted as being in- applicable to India. Ditto.
1835	5 & 6 Will. 4, c. 52.	The India (North- West Provinces) Act, 1835.	S. 1 rep. 53 & 54 Vict., c. 33 (S. L. R.) S. 2 rep. in pt. 53 & 54 Vict., c. 33 (S. L. R.)	See p. 187.
"	5 & 6 Will. 4, c. 62.	The Statutory De- clarations Act, 1835.	S. 1 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.)	See p. 187. Omitted as being inapplicable to India.

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1835	5 & 6 Will. 4, c. 62.— <i>contd.</i>	.....	Ss. 2—10 S. 11 rep. 46 & 47 Vict., c. 57, s. 113. Ss. 12—14 Ss. 15 & 17 rep. in pt. 22 & 23 Vict., c. 12, s. 1. Ss. 22 & 23 rep. U. K.) 37 & 38 Vict., c. 35 (S. L. R.)	Omitted as being inapplicable to India. Ditto. Ditto.
"	5 & 6 Will. 4, c. 64.	The Stamp Duties Act, 1835.	Ss. 1 & 2 rep. (U. K.) 33 & 34 Vict., c. 99. S. 3 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.) S. 5 rep. 23 & 24 Vict., c. 6, s. 2. S. 6 rep. (U. K.) 37 & 38 Vict., c. 35 (S. L. R.) S. 7 rep. (U. K.) 33 & 34 Vict., c. 99. Ss. 8 & 9 rep. 32 & 33 Vict., c. 14, s. 39. Ss. 10—13 rep. 43 & 44 Vict., c. 19, s. 4. Ss. 14—17 rep. 32 & 33 Vict., c. 14, s. 39.	See p. 190. Omitted as being inapplicable to India. Ditto. Ditto. Ditto.
1837	7 Will. 4 & 1 Vict., c. 47.	The India Officers' Salaries Act, 1837.	.....	See p. 191.
1840	3 & 4 Vict., c. 105.	The Debtors (Ire- land) Act, 1840.	.....	See p. 192.
1842	5 & 6 Vict., c. 45.	The Copyright Act, 1842.	S. 1 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.) S. 26 rep. (U. K.) 56 & 57 Vict., c. 61, s. 2. S. 30 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)	See p. 193. Omitted as being spent and inappli- cable to India. Omitted as being spent.
1842	5 & 6 Vict., c. 119.	The Indian Bishops Act, 1842.	.....	See p. 205.
1843	6 & 7 Vict., c. 22.	The* (Colonies) Evidence Act, 1843	S. 2 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)	See p. 206. Omitted as being spent.

*Chronological Table.*STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1843	6 & 7 Vict., c. 38.	The Judicial Committee Act, 1843.	<p>.....</p> <p>S. 1 rep. (U. K.) 54 & 55 Vict., c. 67 (S. L. R.)</p> <p>S. 2 rep. in pt. 53 & 54 Vict., c. 27, s. 18.</p> <p>S. 4 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p> <p>S. 6 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p> <p>S. 8 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p> <p>Ss. 9 & 10 rep. in pt. 53 & 54 Vict., c. 27, s. 18.</p> <p>S. 13 rep. (U. K.) 42 & 43 Vict., c. 59.</p> <p>S. 16 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p>	<p>See p. 207.</p> <p>Omitted as being inapplicable to India.</p> <p>Omitted as being spent.</p> <p>Ditto.</p> <p>Omitted as being obsolete.</p> <p>Omitted as being inapplicable to India.</p> <p>Omitted as being spent.</p>
"	6 & 7 Vict., c. 98.	The Slave Trade Act, 1843.	<p>S. 2 rep. 54 & 55 Vict., c. 67 (S. L. R.)</p> <p>S. 3 rep. 36 & 37 Vict., c. 38, s. 30.</p> <p>Ss. 5 & 6 rep. 54 & 55 Vict., c. 67 (S. L. R.)</p> <p>S. 7 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p>	<p>Omitted as being spent.</p>
1844	7 & 8 Vict., c. 12.	The International Copyright Act, 1844.	<p>.....</p> <p>S. 1 rep (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p> <p>Ss. 14, 17 & 18 rep. 49 & 50 Vict., c. 33, s. 12.</p> <p>S. 21 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p>	<p>See p. 213.</p> <p>Omitted as being spent.</p> <p>Omitted as being spent.</p>
"	7 & 8 Vict., c. 69.	The Judicial Committee Act, 1844.	<p>.....</p> <p>Ss. 2—5 rep. 46 & 47 Vict., c. 57, s. 113.</p> <p>Ss. 6 & 7 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p> <p>S. 12 rep. 53 & 54 Vict., c. 27, s. 18.</p> <p>S. 13 rep. (U. K.) 37 & 38 Vict., c. 96 (S. L. R.)</p>	<p>See p. 219.</p> <p>Omitted as being inapplicable to India.</p>
1847	10 & 11 Vict., c. 62	The Naval Deserters Act, 1847.	<p>.....</p> <p>Ss. 1—8 rep. 23 & 24 Vict., c. 123, s. 86.</p>	<p>See p. 221.</p>

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1847	10 & 11 Vict., c. 62 <i>contd.</i>—	.....	S. 11 rep. 29 & 30 Vict., c. 109, s. 85. S. 14 except in so far as it relates to a proceeding under s. 9. rep. (U. K.) 55 & 56 Vict., c. 19 (S. L. R.) S. 15 rep. (U. K.) 55 & 56 Vict., c. 19 (S. L. R.) S. 17 rep. (U. K.) 38 & 39 Vict., c. 66 (S. L. R.)	Omitted as being inapplicable to India. Omitted as being spent.
"	10 & 11 Vict., c. 95.	The Colonial Copyright Act, 1847.	..... S. 3 rep. (U. K.) 38 & 39 Vict., c. 66 (S. L. R.)	See p. 225. Omitted as being spent.
1848	11 & 12 Vict., c. 21	The Indian Insolvency Act, 1848.	..... Ext. (B. I.) XI of 1889 Am. (B. I.) X of 1898. S. 1 rep. (U. K.) 38 & 39 Vict., c. 66 (S. L. R.); rep. (P. I.) XIV of 1870. S. 42 rep. 38 & 39 Vict., c. 66 (S. L. R.); rep. also (B. I.) IX of 1872. Ss. 65—67 rep. 38 & 39 Vict., c. 66 (S. L. R.); rep. also (B. I.) XIV of 1870. Ss. 88—90 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 93 rep. 38 & 39 Vict., c. 66 (S. L. R.)	See p. 226.
1849	12 & 13 Vict., c. 25	The Portuguese Deserters, Act, 1849.	..... S. 2 rep. in pt. 39 & 40 Vict., c. 20, s. 2.	See p. 273.
"	12 & 13 Vict., c. 96.	The Admiralty Offences (Colonial) Act, 1849.	..... S. 2 rep. 54 & 55 Vict., c. 67 (S. L. R.) S. 4. S. 6 rep. 41 & 42 Vict., c. 79 (S. L. R.)	See p. 274. Omitted as being inapplicable to India.
1850	13 & 14 Vict., c. 26.	The Piracy Act, 1850.	..... S. 1 rep. (U. K.) 38 & 39 Vict., c. 66 (S. L. R.) S. 4 rep. 38 & 39 Vict., c. 66 (S. L. R.) S. 7 rep. 38 & 39 Vict., c. 66 (S. L. R.)	See p. 275. Omitted as being spent. Omitted as being inapplicable to India. Omitted as being spent.

*Chronological Table.*STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1851	14 & 15 Vict., c. 81.	The Lunatics Removal (India) Act, 1851.	.....	See p. 278.
1852	15 & 16 Vict., c. 12.	The International Copyright Act, 1852.	Ss. 1—5 rep. 49 & 50 Vict., c. 33, s. 12. S. 8 rep. 49 & 50 Vict., c. 33, s. 12. S. 11 rep. 49 & 50 Vict., c. 33, s. 12. Ss. 12 & 13 rep. 38 & 39 Vict., c. 66 (S. L. R.)	See p. 281.
„	15 & 16 Vict., c. 52.	The Colonial Bishops Act, 1852.	.....	See p. 283.
1853	16 & 17 Vict., c. 48.	The Coinage (Colonial Offences) Act, 1853.	.....	See p. 285.
„	16 & 17 Vict., c. 49.	The Colonial Bishops Act, 1853.	.....	See p. 286.
„	16 & 17 Vict., c. 35.	The East India Company Act, 1853.	Ss. 2—14 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 18 rep. 28 & 29 Vict., s. 17, s. 3. Ss. 20 & 21 rep. 41 & 42 Vict., c. 79 (S. L. R.) Ss. 22—24 rep. 24 & 25 Vict., c. 67, s. 2 S. 25 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 26 rep. 24 & 25 Vict., c. 67, s. 2. S. 28 rep. 55 & 56 Vict., c. 19 (S. L. R.) Ss. 29—31, 33 & 34, 36—43 rep. 41 & 42 Vict., c. 79 (S. L. R.)	See p. 287.
„	16 & 17 Vict., c. 107.	The Customs Consolidation Act, 1853.	.....	See p. 290.
1854	17 & 18 Vict., c. 77.	The Government of India Act, 1854.	S. 1 rep. (U. K.) 55 & 56 Vict., c. 19 (S. L. R.) S. 2 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 6 rep. 41 & 42 Vict., c. 79 (S. L. R.)	See p. 291. Omitted as being obsolete.

*Chronological Table.*STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1856	19 & 20 Vict., c. 113.	The Foreign Tribunals Evidence Act, 1856.	.....	See p. 292.
1857	20 & 21 Vict., c. 39.	The Colonial Attornies Relief Act.	.....	See p. 294.
1858	21 & 22 Vict., c. 3.	The East India Loans Act, 1858.	..... S. 7 rep. (U. K.) 38 & 39 Vict., c. 66 (S. L. R.) S. 10 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 11 rep. 37 & 38 Vict., c. 3, s. 15.	See p. 297. Omitted as being probably obsolete.
„	21 & 22 Vict., c. 106.	The Government of India Act, 1858.	..... S. 5 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 8 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 9 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 14 rep. 32 & 33 Vict., c. 97, s. 5. Ss. 17, 31, 44 & 46 rep. 41 & 42 Vict., c. 79 (S. L. R.) Ss. 50, 60—62 rep. 55 & 56 Vict., c. 19 (S. L. R.) Ss. 66 72 & 73 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 74 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 75 rep. 41 & 42 Vict., c. 79 (S. L. R.)	See p. 298.
1859	22 Vict., c. 11.	The East Indian Loan Act, 1859.	..... S. 7 rep. (U. K.) 38 & 39 Vict., c. 66 (S. L. R.) S. 10 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 11 rep. 37 & 38 Vict., c. 3, s. 15.	See p. 315. Omitted as being probably obsolete.
„	22 Vict., c. 20.	The Evidence by Commission Act, 1859.	.....	See p. 317.
„	22 & 23 Vict., c. 39.	The East Indian Loan (No. 2) Act, 1859.	..... S. 13 rep. (U. K.) 55 & 56 Vict., c. 19 (S. L. R.) S. 14 rep. 37 & 38 Vict., c. 3, s. 15.	See p. 319. Omitted as being obsolete.

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	Remarks.
1859	22 & 23 Vict., c. 41.	The Government of India Act, 1859.	.....	See p. 322.
"	22 & 23 Vict., c. 63.	The British Law Ascertainment Act, 1859.	.....	See p. 324.
1860	23 & 24 Vict., c. 5.	The Indian Securities Act, 1860.	.....	See p. 326.
"	23 & 24 Vict., c. 88.	The Admiralty Jurisdiction (India) Act, 1860.	.....	See p. 327.
"	23 & 24 Vict., c. 89.	The Superannuation Act, 1860.	.....	See p. 328.
"	23 & 24 Vict., c. 100.	The European Forces (India) Act, 1860.	.....	See p. 328.
"	23 & 24 Vict., c. 102.	The East India Stock Act, 1860.	..... Ss. 1—5 rep. (U. K.) 39 & 39 Vict., c. 66 (S. L. R.)	See p. 329. Omitted as being inapplicable to India.
"	23 & 24 Vict., c. 122.	The Admiralty Offences (Colonial) Act, 1860.	.....	See p. 330.
"	23 & 24 Vict., c. 130.	The East India Loan Act, 1860.	..... S. 13 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 14 rep. 37 & 38 Vict., c. 3, s. 15.	See p. 333.
1861	24 & 25 Vict., c. 3.	The Bank of England Act, 1861.	..... The whole Act, except ss. 4, 5, 9, 10, rep. 55 & 56 Vict., c. 48, s. 8. ss. 4, 5, 9.	See p. 333. Omitted as being inapplicable to India.
"	24 & 25 Vict., c. 11.	The Foreign Law Ascertainment Act, 1861.	.....	See p. 334.
"	23 & 24 Vict., c. 25.	The East Indian Loan Act, 1861.	.....	See p. 336.
"	24 & 25 Vict., c. 54.	The Indian Civil Service Act, 1861.	..... S. 1 rep. 55 & 56 Vict., c. 19 (S. L. R.)	See p. 337.
"	24 & 25 Vict., c. 67.	The Indian Councils Act, 1861.	..... S. 2 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.)	See p. 333.

*Chronological Table.*STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1861	24 & 25 Vict., c. 67— <i>contd.</i>	.....	S. 3 rep. in pt. 41 & 42 Vict., c. 79 (S. L. R.) S. 13 rep. 55 & 56 Vict., c. 14, s. 4. S. 16 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 17 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.) S. 32 rep. 55 & 56 Vict., c. 14, s. 4. S. 35 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 36 rep. in pt. 55 & 56 Vict., c. 19 (S. L. R.) S. 54 rep. 41 & 42 Vict., c. 79 (S. L. R.)	
"	24 & 25 Vict., c. 97.	The Malicious Damage Act, 1861.	.....	See p. 354.
"	24 & 25 Vict., c. 104.	The Indian High Courts Act, 1861.	S. 1 rep. 55 & 56 Vict., c. 19 (S. L. R.) S. 3 rep. 41 & 42 Vict., c. 79 (S. L. R.) S. 10 rep. 28 & 29 Vict., c. 15, s. 1. S. 17 rep. (U. K.) 56 & 57 Vict., c. 14 (S. L. R.) S. 18 rep. 28 & 29 Vict., c. 15, s. 2.	See p. 355. Omitted as being spent.
"	24 & 25 Vict., c. 114.	The Wills Act, 1861.	.....	See p. 359.
"	24 & 25 Vict., c. 121.	The Domicile Act, 1861.	.....	See p. 360.
1862	25 & 26 Vict., c. 7.	The India Stock Transfer Act, 1862.	.....	See p. 362.
"	25 & 26 Vict., c. 20.	The Habeas Corpus Act, 1862.	.....	See p. 368.
"	25 & 26 Vict., c. 68.	The Fine Arts Copyright Act, 1862.	S. 12 rep. 49 & 50 Vict., c. 33, s. 12, in so far as it incorporates any enact- ment repealed by that Act.	See p. 373.

*Chronological table.*STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1863	26 & 27 Vict., c. 76.	The Colonial Letters Patent Act, 1863.	..... S. 4 rep. 38 & 39 Vict., c. 66 (S. L. R.) S. 5 rep. (U. K.) 56 & 57 Vict., c. 4 (S. L. R.)	See p. 378.
1864	27 & 28 Vict., c. 25.	The Naval Prize Act, 1864.	..... S. 13 rep. 57 & 58 Vict., c. 39, s. 3 (3). S. 56 rep. (U. K.) 56 & 57 Vict., c. 14 (S. L. R.)	See p. 379 Omitted as being spent.
	27 & 28 Vict., c. 50.	India Stock Transfer.	Rep. (U. K.) 56 & 57 Vict., c. 14 (S. L. R.)	Omitted as being spent.
"	27 & 28 Vict., c. 51.	India Office Site	.....	See page 392.
1865	28 & 29 Vict., c. 15.	The Indian High Courts Act, 1865.	..... S. 1 rep. 56 & 57 Vict., c. 14 (S. L. R.) Ss. 2 & 5 rep. 41 & 42 Vict., c. 79 (S. L. R.)	See p. 394.
"	28 & 29 Vict., c. 17.	The Government of India Act, 1865.	..... S. 3 rep. 41 & 42 Vict., c. 79 (S. L. R.)	See p. 395.
"	28 & 29 Vict., c. 32.	The India Office Site and Approaches Act, 1865.	.....	See p. 396.
1866	29 & 30 Vict., c. 18.	The India Military Funds Act, 1866.	..... S. 1 rep. 56 & 57 Vict., c. 14 (S. L. R.) S. 3 rep. 56 & 57 Vict., c. 14 (S. L. R.)	See p. 400.
"	29 & 30 Vict., c. 47.	The Indian Prize Money Act, 1866.	.....	See p. 401.
"	29 & 30 Vict., c. 109.	The Naval Discipline Act.	..... Ss. 71 & 77 rep. 47 & 48 Vict., c. 39, s. 8. S. 53 (4) am. 54 & 55 Vict., c. 69, s. 1. S. 99 rep. 38 & 39 Vict., c. 66 (S. L. R.) S. 84 rep. in pt. 47 & 48 Vict., c. 39, s. 8. S. 85 rep. in pt. (U. K.) 56 & 57 Vict., c. 14 (S. L. R.)	See p. 403.

Chronological Table.

STATUTES RELATING TO INDIA—*contd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1866	29 & 30 Vict., c. 109— <i>contd.</i>	.....	Schedule rep. (U. K.) 56 & 57 Vict., c. 14 (S. L. R.)	Omitted as being spent.
"	29 & 30 Vict., c. 115.	The Straits Settlements Act, 1866.	S. 1 rep. (U. K.) 56 & 57 Vict., c. 14 (S. L. R.)	See p. 432. Omitted as being inapplicable to India.
1868	30 & 31 Vict., c. 26.	The Indian Railway Companies Act, 1868.	.....	See p. 433.
"	31 & 32 Vict., c. 37.	The Documentary Evidence Act, 1868.	.....	See p. 436.
"	31 & 32 Vict., c. 38.	The Indian Prize Money Act, 1868.	.....	See p. 438.
"	31 & 32 Vict., c. 61.	The Consular Marriage Act, 1868.	.....	See p. 440.
"	31 & 32 Vict., c. 91.	Sir Robert Napier's Annuity.	.....	See p. 441.
1869	32 & 33 Vict., c. 7.	The East India Irrigation and Canal Act, 1869.	.....	See p. 442.
"	32 & 33 Vict., c. 88.	Bishopric of Straits Settlements.	Rep. (U. K.) 56 & 57 Vict., c. 54 (S. L. R.)	See p. 446.
"	32 & 33 Vict., c. 97.	The Government of India Act, 1869.	S. 5 rep. (U. K.) 46 & 47 Vict., c. 39 (S. L. R.)	See p. 447. Omitted as being spent.
"	32 & 33 Vict., c. 98.	The Indian Councils Act, 1869.	S. 2 rep. 46 & 47 Vict., c. 39 (S. L. R.)	See p. 448.
"	32 & 33 Vict., c. 106.	The East India Loan Act, 1869.	S. 1 rep. (U. K.) 56 & 57 Vict., c. 54 (S. L. R.)	See p. 448. Omitted as being inapplicable to India.
1870	33 & 34 Vict., c. 3.	The Government of India Act, 1870.	S. 4 rep. 46 & 47 Vict., c. 39 (S. L. R.)	See p. 449.
"	33 & 34 Vict., c. 14.	The Naturalization Act, 1870.	S. 10 am. 58 & 59 Vict., c. 30, s. 1.	See p. 451.

Chronological Table.

STATUTES RELATING TO INDIA—*concl'd.*

Year.	Regnal No. and Chapter.	Short title or subject.	How repealed or otherwise affected.	REMARKS.
1870	33 & 34 Vict., c. 14— <i>cont'd.</i>	.....	S. 18 and schedule rep. 46 & 47 Vict., c. 39 (S. L. R.)	Omitted as being spent.
"	33 & 34 Vict., c. 52.	The Extradition Act, 1870.	..... Ext. (B. L.) IX of 1895.	See p. 456.
"	33 & 34 Vict., c. 59.	The East India Contracts Act, 1870.	..... S. 1 rep. 46 & 47, Vict., c. 39 (S. L. R.)	See p. 472.
"	33 & 34 Vict., c. 90.	The Foreign Enlistment Act, 1870.	... .. S. 31 rep. 46 & 47, Vict., c. 39 (S. L. R.)	See p. 472.
"	33 & 34 Vict., c. 102.	The Naturalization Oath Act, 1870.	.....	See p. 484.

A COLLECTION OF STATUTES RELATING TO INDIA.

POSTHUMOUS CHILDREN.

(10 Will. 3, c. 22.¹)

An Act to enable Posthumous Children to take Estates as if borne in their Fathers Lifetime.

WHEREAS it often happens that by marriage and other settlements estates are limited in remainder to the use of the sons and daughters the issue of such marriage with remainders over without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters by which means such sons and daughters if they happen to be borne after the decease of their father are in danger to be defeated of their remainder by the next in remainder after them and left unprovided for by such settlements contrary to the intent of the parties that made those settlements :

Be it enacted by the Kings Most Excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in this present Parliament assembled and by the authority of the same that where any estate already is or shall hereafter by any marriage or other settlement be limited in remainder to or to the use of the first or other son or sons of the body of any person lawfully begotten with any remainder or remainders over to or to the use of any other person or persons or in remainder to or to the use of a daughter or daughters lawfully begotten with any remainder or remainders to any other person or persons that any son or sons or daughter or daughters of such person or persons lawfully begotten or to be begotten that shall be borne after the decease of his her or their father shall and may by virtue of such settlement take such estate so limited to the first and other sons or to the daughter or daughters in the same manner as if borne in the lifetime of his her or their father although there shall happen no estate to be limited to trustees after the decease of the father to preserve the contingent remainder to such after-borne son or sons daughter or daughters untill he she or they come in esse or are borne to take the same any law or usage to the contrary in any wise notwithstanding.

2. [Rep. as to U. K. 50 & 31 Vict., c. 59 (S. L. R.). Omitted as being spent.]

¹ This is Cap. 16 in the common printed editions.

CRIME IN PLANTATIONS.¹

(11 Will. 3, c. 12.)

Rot. Parl.,
11 Gul. III.
p. 3. n. 3.
Reasons for
passing this
Act.

An Act to punish Governors of Plantations in this Kingdom for Crimes by them committed in the Plantations.

WHEREAS a due punishment is not provided for severall crimes and offences committed out of this his Majesties realme of England whereof divers governors lieutenant-governors deputy governors or commanders-in-chiefe of plantations and colonies within his Majesties dominions beyond the seas have taken advantage and have not been deterred from oppressing his Majesties subjects within their respective governments and commands nor from committing severall other great crimes and offences not deeming themselves punishable for the same here nor accountable for such their crimes and offences to any person within their respective governments and commands:

How and
where oppres-
sions by gov-
ernors, etc., of
plantations
abroad tried.

For remedy whercof be it enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in Parliament assembled and by the authority of the same that if any governor lieutenant-governor deputy governor or commander-in-chiefe of any plantation or colony within his Majesties dominions beyond the seas shall after the first day of August one thousand seven hundred be guilty of oppressing any of his Majesties subjects beyond the seas within their respective governments or commands or shall be guilty of any other crime or offence contrary to the laws of this realme or in force within their respective governments or commands such oppressions crimes and offences shall be enquired of heard and determined in his Majesties Court of Kings Bench here in England or before such commissioners and in such county of this realme as shall be assigned by his Majesties commission and by good and lawfull men of the same county and that such punishments shall be inflicted on such offenders as are usually inflicted for offences of like nature committed here in England.

THE ACT OF SETTLEMENT.

(12 & 13 Will. 3, c. 2.)

An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the subject.

	*	*	*	*
3.	*	*	*	*
	*	*	*	

No person born out of the Kingdoms of England, Scotland or Ireland or the dominions there-

¹ See, too, §§ 4 and 5, 21 Geo. 3, c. 70, *post*, p.

unto belonging (although he be naturalized or made a denizen except such as [are]¹ born of English parents) shall be capable to be of the Privy Council or a member of either House of Parliament or to enjoy any office or place of trust, either Civill or Military, or to have any grant of lands, tenements or hereditaments from the Crown to himself or to any other or others in trust for him².

* * * *

THE FOREIGN PROTESTANTS' NATURALIZATION ACT, 1709.

(7 Anne, c. 5.)

An Act for naturalizing Foreign Protestants.

[*Whole Act except part printed rep. 10 Anne, c. 9.*³]

3. * * * * the children of all natural-born subjects born out of the ligeance of her Majesty her heires and successors shall be deemed adjudged and taken to be natural-born subjects of this kingdom to all intents constructions and purposes whatsoever.⁴

Rot. Parl.,
7 Ann. p. 2,
n. 4.

Children of
natural-born
subjects, born
out of Eng-
land, deemed
natural-born
subjects.

¹ Interlined on the roll.

² Rep. 7 & 8 Vict., c. 66, as to such parts as are inconsistent with the provisions of that Act. The provisions of that Act with which this clause is inconsistent, are as follows:—

Sec. 3.—And be it enacted, that every person now born or hereafter to be born, out of her Majesty's dominions, of a mother being a natural-born subject of the United Kingdom, shall be capable of taking to him, his heirs, executors, or administrators, any estate, real or personal, by devise or purchase or inheritance of succession.

Sec. 5.—And be it enacted, that every alien now residing in or who shall hereafter come to reside in any part of the United Kingdom, and being the subject of a friendly state, may by grant lease, demise, assignment, bequest, representation, or otherwise, take and hold any lands, houses, or other tenements for the purpose of residence or of occupation by him or her or his or her servants, or for the purpose of any business, trade or manufacture, for any term of years not exceeding twenty-one years, as fully and effectually to all intents and purposes, and with the same rights, remedies, exemptions, and privileges, except the right to vote at elections for members of Parliament, as if he were a natural-born subject of the United Kingdom.

Sec. 6.—And be it enacted, that upon obtaining the certificate and taking the oath hereinafter prescribed, every alien now residing in or who shall hereafter come to reside in any part of Great Britain or Ireland with intent to settle therein, shall enjoy all the rights and capacities which a natural-born subject of the United Kingdom can enjoy or transmit, except that such alien shall not be capable of becoming of her Majesty's privy council nor a member of either House of Parliament, nor of enjoying such other rights and capacities, if any, as shall be specially excepted in and by the certificate to be granted in manner hereinafter mentioned.

Sec. 16.—And be it enacted, that any woman married or who shall be married to a natural-born subject or person naturalized shall be deemed and taken to be herself naturalized and have all the rights and privileges of a natural-born subject.

7 & 8 Vict., c. 66, is rep. 33 Vict., c. 14, by s. 7 of which Act the above clause is virt. rep. as to all persons obtaining a certificate of naturalization.

³ This is numbered Cap. 5 in the Statutes at large.

⁴ See, too, 4 Geo. 2, c. 21; 13 Geo. 3, c. 21.

THE BRITISH NATIONALITY ACT, 1730¹.

(4 Geo. 2, c. 21.)

An Act to explain a clause in an Act made in the Seventh year of the Reign of Her late Majesty Queen Anne (for naturalizing Foreign Protestants) which relates to the Children of the Natural-born Subjects of the Crown of England or of Great Britain.

Preamble.

[7 Ann. c. 5.] WHEREAS by an Act of Parliament made in the seventh year of the reign of her late Majesty Queen Anne [intituled An Act for naturalizing of foreign protestants] it is (among other things) enacted that the children of all natural-born subjects, born out of the ligeance of her said late Majesty, her heirs and successors. should be deemed, adjudged, and taken to be natural-born subjects of this kindgom to all intents, constructions, and purposes whatsoever:

[10 Ann. c. 9.] And whereas in the tenth year of her said late Majesty's reign another Act was made and passed to repeal the said Act (except what related to the children of her Majesty's natural-born subjects born out of her Majesty's allegiance):

And whereas some doubts have arisen upon the construction of the said recited clause in the said Act of the seventh year of her late Majesty's reign:

Children of natural-born subjects, born out of the allegiance of the crown, declared to be natural-born.

Now for the explaining the said recited clause in the said Act relating to children of natural-born subjects, and to prevent any disputes touching the true intent and meaning thereof, may it please your most excellent Majesty that it may be declared and enacted, and be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and the commons, in this present Parliament assembled, and by authority of the same, that all children born out of the ligeance of the crown of England or of Great Britain, or which shall hereafter be born out of such ligeance whose fathers were or shall be natural-born subjects of the crown of England or of Great Britain, at the time of the birth of such children respectively, shall and may, by virtue of the said recited clause in the said Act of the seventh year of the reign of her said late Majesty and of this present Act be adjudged and taken to be. and all such children are hereby declared to be natural-born subjects of the crown of Great Britain to all intents, constructions, and purposes whatsoever.

Children of parents attainted of treason,

2. Provided always, and be it further declared and enacted by the authority afore-said, that nothing in the said recited Act of the seventh year of her said late Majesty's reign, or in this present Act contained, did, doth, or shall extend, or ought to be construed adjudged, or taken to extend to make any children

¹ See as to this Act, *Chitty's Statutes*, Tit. Alien; *Hill's Foreign Jurisdiction of the Crown*, pp. 18—71; *Dicey's Conflict of Laws*, pp. 178 and 740. And as to the construction of this Act, with 13 Geo. 3, c. 21, see *De Geer v. Stee*, 22 Ch. D., 240.

born or to be born out of the ligeance of the crown of England or of the crown of Great Britain to be natural born subjects of the crown of England or of Great Britain, whose fathers at the time of the birth of such children respectively were or shall be attainted of high treason by judgment, outlawry, or otherwise, either in this kingdom or in Ireland, or whose fathers at the time of the birth of such children respectively by any law or laws made in this kingdom or in Ireland were or shall be liable to the penalties of high treason or felony in case of their returning into this kingdom or into Ireland without the licence of his Majesty, his heirs or successors, or of any of his Majesty's royal predecessors, or whose fathers at the time of the birth of such children respectively were or shall be in the actual service of any foreign prince or state then in enmity with the crown of England or of Great Britain, but that all such children are, were, and shall be and remain in the same state, plight and condition to all intents, constructions, and purposes whatsoever as they would have been in if the said Act of the seventh year of her said late Majesty's reign or this present Act had never been made any thing herein or in the said Act of the seventh year of her said late Majesty's reign contained to the contrary in any wise notwithstanding.

or in actual service of foreign princes in enmity with the crown, excepted.

3. [*Rep. as to U. K. 30 & 31 Vict., c. 59 (S. L. R.) Omitted as being partly spent and partly inapplicable to India.*]

THE EAST INDIA COMPANY ACT, 1770.¹

(10 Geo. 3, c. 47.)

An Act for better regulating persons employed in the service of the East India Company and for other purposes therein mentioned.

1. [*Rep. 33 Geo. 3, c. 52, s. 146.*]

2. And whereas sundry captains and other officers and mariners of ships, in the service of the said united company, bound to India, do oftentimes in a clandestine manner carry and transport to the East Indies aforesaid great quantities of artillery, ordnance, musquets, firearms, ammunition and warlike stores and there sell and dispose thereof to the natives, and also to powers in those parts at war or in enmity with the said united company, or to other persons through whose hands the same do or may come to the use of such powers; to the great injury of the publick as well as of the said united company and their possessions and trade in India: therefore, to the end that such evil practices may for the future be remedied and prevented :

¹ So much of this Act as subjects any persons concerned in the illicit trade to, in or from the East Indies therein recited, or in any trade thereby punishable, to any penalty or penalties, *rep. 33 Geo. 3, c. 52, s. 146.* For digest and notes, *see* *Ilbert's Government of India*, p. 278.

(Secs. 4-5.)

Persons in
service of
company
transporting
warlike stores,
etc.

Penalty.

Company's
servants in
the East
Indies guilty
of oppression
or other crime,
may be tried
in the Court
of King's
Bench, and
punished as if
offence com-
mitted in Eng-
land.

Crime may be
alleged to be
committed
in Middlesex.

Be it further enacted by the authority aforesaid, that all and every officer and officers, mariners, or other person or persons, in the service of the said united company, who shall, from and after the passing of this Act, carry, transport or send, or cause to be carried, transported or sent, to the East Indies aforesaid, or shall put or cause to be put on board any ship in the service of the said united company trading to the East Indies any artillery, ordnance, musquets, firearms, ammunition, or warlike stores of any kind whatsoever, or shall knowingly aid or assist therein, without the license or authority of the said united company, with intention or for the purpose of transporting, selling, trafficking, bartering, exchanging or otherwise uttering or disposing of the same in the East Indies, or within the limits of the said united company's trade, shall, in every such case, be deemed and adjudged to be guilty of a high crime and misdemeanour, and as such shall and may be prosecuted for the same in His Majesty's Court of King's Bench at Westminster;

and such person or persons so offending, being convicted, shall be liable to such corporal punishment or fine as the said court shall think fit.¹

3. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. I. R.). Omitted as being obsolete and inapplicable to India.*]

4. And * * * * ² if any person or persons whatsoever employed by or in the service of the said united company, in any civil or military station, office, or capacity whatsoever in the East Indies, or deriving or claiming any power, authority, or jurisdiction by or from the said united company, shall, after the passing of this Act, be guilty of oppressing any of his Majesty's subjects beyond the seas within their respective jurisdictions, or in the exercise of any such station, office, employment, power, or authority derived or claimed by, from, or under the said united company, or shall be guilty of any other crime or offence, such oppressions, crimes, and offences shall and may be enquired of, heard and determined in his Majesty's Court of King's Bench in England;

and such punishments shall be inflicted on such offenders as are usually inflicted for offences of the like nature committed in that part of Great Britain called England;

and the same and all other offences committed against this Act may be alleged to be committed, and may be laid, enquired of, and tried in the county of Middlesex.

5. [*Rep. as to U. K. 56 & 57 Vict., c. 61; omitted as being inapplicable to India.*]

¹ The whole of s. 2 was omitted from the Act as printed in the *Statutes Revised*, Vol. II, Ed. 1871. It is reproduced, however, in the last edition (1889).

² The words "be it further enacted by the authority aforesaid" have been omitted on the authority of section 4 of the Statute Law Revision Act, 1884 (57 & 58 Vict., c. 56)—see *post*, p. 506.

6. And be it further enacted by the authority aforesaid that this Act shall be deemed and taken to be a public Act, of which notice shall be judicially taken by all judges, justices and other persons whatsoever, without specially pleading the same.¹

7. [*Rep. as to U. K. 56 & 57 Vict., c. 61; omitted as being inapplicable to India.*]

THE BRITISH NATIONALITY ACT, 1772.²

(13 Geo. 3, c. 21.)

An Act to extend the Provisions of an Act, made in the Fourth year of the reign of His late Majesty King George the Second, intituled "An Act to explain a Clause in an Act, made in the Seventh year of the reign of Her late Majesty Queen Anne, for naturalizing Foreign Protestants, which relate to the children of the natural born subjects of the Crown of England, or of Great Britain," to the Children of such Children.

WHEREAS divers natural-born subjects of Great Britain who profess, and exercise the protestant religion, through various lawful causes, especially for the better carrying on of commerce, have been, and are, obliged to reside in several trading cities and other foreign places, where they have contracted marriages and brought up families :

And whereas it is equally just and expedient that the kingdom should not be deprived of such subjects, nor lose the benefit of the wealth that they have acquired; and therefore that not only the children of such natural-born subjects, but their children also, should continue under the allegiance of his Majesty, and be intituled to come into this kingdom, and to bring hither and realize or otherwise employ their capital; but no provision hath hitherto been made to extend farther than to the children born out of the ligeance of his Majesty, whose fathers were natural-born subjects of the Crown of England, or of Great Britain :

May it therefore please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all persons born, or who hereafter shall be born, out of the ligeance of the Crown of England, or of Great Britain, whose fathers were or shall be, by virtue of a Statute made in the fourth year of King George the Second to explain a clause in an Act made in the seventh year of the reign of Her Majesty Queen

¹ S. 6 was repealed as to the United Kingdom by 50 & 51 Vict., c. 59 (S. L. R.). It may be a question whether, with reference to s. 57 (2) of the Indian Evidence Act, 1872 (1 of 1872) it ought not to be retained in the Indian Statute-book.

² See *Chitty's Statutes*, Tit. Alien; *Hall's Foreign Jurisdiction of the Crown*, pp. 18-71. *Dicey's Conflict of Laws*, pp. 175 and 740. And, for the construction of this Act with 4 Geo. 2, c. 21, see *De Geer v. Stone*, 23 Ch. D., 243.

Anne, for naturalizing foreign protestants, which relates to the natural-born subjects of the Crown of England, or of Great Britain, intituled to all the rights and privileges of natural-born subjects of the Crown of England, or of Great Britain, shall and may be adjudged and taken to be, and are hereby declared and enacted, to be natural-born subjects of the Crown of Great Britain, to all intents, constructions, and purposes whatsoever, as if he and they had been and were born in this kingdom, any thing contained in an

[12 & 18 W.S. Act of the twelfth year of the reign of King William the Third, intituled "An
c. 2.] "Act for the further limitation of the Crown, and better securing the rights
"and liberties of the subject," to the contrary in any-wise notwithstanding.

Provisoos, etc.,
of 4 Geo. 2,
[c. 21] not
repealed by
this Act.

2. Provided always * * * * that nothing in this present Act contained shall extend, or be construed, adjudged, or taken to extend, to make any persons born or to be born out of the ligeance of the Crown of England, or of the Crown of Great Britain, to be natural-born subjects of the Crown of Great Britain contrary to all or any of the provisoos, exceptions, limitations, and restrictions, contained in the aforesaid Act made in the fourth year of the reign of his said late Majesty, or to repeal, abridge, or alter the same;

but all such clauses shall be and remain in the same state, plight, and condition, to all intents, constructions, and purposes whatsoever, as they would have been if this present Act had never been made.

3. [*Rep. 34 & 35 Vict., c. 46.*]

Not to defeat
ny right
vested in an-
other person
on the last day
of this session.

4. Provided always * * * * that no person shall be enabled hereby to defeat any estate, right, or interest which upon the last day of this session shall be lawfully vested in any other person, or to claim or demand any estate or interest which shall hereafter accrue, unless such claim or demand be made within five years next after the same shall accrue.

THE EAST INDIA COMPANY ACT, 1772.¹

(13 Geo. 3, c. 63.)

An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe.

[*Preamble and ss. 1-6, rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.)*

Omitted as being obsolete and inapplicable to India.]

A governor-
general and
four counsel-
lors to be ap-
pointed, in
whom the

7. And for the better management of the said united company's affairs in India, be it further enacted by the authority aforesaid, that for the government of the Presidency of Fort William in Bengal there shall be appointed a governor-general and four counsellors ;

¹ This Act is commonly known as "the Regulating Act." For historical notes, see *Ilbert's Government of India*, pp. 43 *et. seq.*, and 278-282.

(Secs. 8-9.)

and that the whole civil and military government of the said presidency, and also the ordering, management, and government of all the territorial acquisitions and revenues in the kingdoms of Bengal, Behar and Orissa, shall, during such time as the territorial acquisitions and revenues shall remain in the possession of the said united company, be and are hereby vested in the said governor-general and council of the said presidency of Fort William in Bengal, in like manner to all intents and purposes whatsoever as the same now are or at any time heretofore might have been exercised by the president and councillor select committee in the said kingdoms.¹

8. And * * * * in all cases whatsoever wherein any difference of opinion shall arise upon any question proposed in any consultation, the said governor-general and council shall be bound and concluded by the opinion and decision of the major part of those present :

and if it shall happen that, by the death or removal, or by the absence of any of the members of the said council, such governor-general and council shall happen to be equally divided, then and in every such case the said governor-general, or, in his absence, the eldest counsellor present, shall have a casting voice, and his opinion shall be decisive and conclusive.

9. And * * * * the said governor-general and council or the major part of them, shall have, and they are hereby authorised to have power of superintending and controuling the government and management of the presidencies of Madras, Bombay and Bencoolen respectively, so far and in so much as that it shall not be lawful for any president and council of Madras, Bombay or Bencoolen for the time being to make any orders for commencing hostilities, or declaring or making war, against any Indian princes or powers, or for negotiating or concluding any treaty of peace, or other treaty, with any such Indian princes or powers, without the consent and approbation of the said governor-general and council first had and obtained, except in such cases of imminent necessity as would render it dangerous to postpone such hostilities or treaties until the orders from the governor-general and council might arrive, and except in such cases where the said presidents and councils respectively shall have received special orders from the said united company ;

and any president and council of Madras, Bombay or Bencoolen who shall offend in any of the cases aforesaid shall be liable to be suspended from his or their office by the order of the said governor-general and council² ;

and every president and council of Madras, Bombay and Bencoolen for the time being shall and they are hereby respectively directed and required

¹ Apparently superseded by 3 & 4 Will. 4, c. 85, but not repealed.

² Modified by 33 Geo. 3, c. 52, s. 43.

to pay due obedience to such orders as they shall receive touching the premises from the said governor-general and council for the time being

* * * * *

and the said governor-general and council for the time being shall and they are hereby directed and required to pay due obedience to all such orders as they shall receive from the court of directors of the said united company, and to correspond from time to time, and constantly and diligently transmit to the said court an exact particular of all advices or intelligence, and of all transactions and matters whatsoever, that shall come to their knowledge relating to the government, commerce, revenues or interest of the said united company ; * * * * *

10. And * * * * * Warren Hastings, Esquire, shall be the first governor-general, and lieutenant-general John Clavering, the Honourable George Monson, Richard Barwell, Esquire, and Philip Francis, Esquire, shall be the four first councillors ;

and they and each of them shall hold and continue in his and their respective offices for and during the term of five years from the time of their arrival at Fort William in Bengal, and taking upon them the government of the said presidency, * * * * *

and from and after the expiration of the said term of five years, the power of nominating and removing the succeeding governor-general and council shall be vested in the directors of the said united company. ²

11. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.). Omitted as being spent.*]

12. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

13. And whereas his late Majesty King George the Second did by his letters patent, bearing date at Westminster this eighth day of January, in the twenty-sixth year of his reign, grant unto the said united company of merchants of England trading to the East Indies his royal charter, thereby amongst other things, constituting and establishing courts of civil, criminal and ecclesiastical jurisdiction at the said united company's respective settlements at Madras-patnam, Bombay on the Island of Bombay, and Fort William in Bengal, which said charter does not sufficiently provide for the due administration of justice in such manner as the state and condition of the company's presidency of Fort William in Bengal, so long as the said company shall continue in the possession of the territorial acquisitions before mentioned, do and must require ·

¹ Words repealed by 55 & 56 Vict., c. 19 (S. L. R.) have been omitted.

² Seems spent, but is probably the origin of the five years' rule which is still observed in practice.

(Secs. 14-15.)

Be it therefore enacted by the authority aforesaid, that it shall and may His Majesty be lawful for his Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a Supreme Court of Judicature at Fort William aforesaid, to consist of a chief justice and three other judges, being barristers in England or Ireland, of not less than five years standing to be named from time to time by his Majesty, his heirs and successors ;

which said Supreme Court of Judicature shall have, and the same court is hereby declared to have, full power and authority to exercise and perform all civil, criminal, admiralty and ecclesiastical jurisdiction, and to appoint such clerks and other ministerial officers of the said court, with such reasonable salaries, as shall be approved of by the said governor-general and council ; and to form and establish such rules of practice, and such rules for the process of the said court, and to do all such other things as shall be found necessary for the administration of justice and the due execution of all or any of the powers which, by the said charter, shall or may be granted and committed to the said court ; and also shall be at all times a court of record, and shall be a court of oyer and terminer and gaol delivery, in and for the said town of Calcutta and factory of Fort William in Bengal aforesaid, and the limits thereof, and the factories subordinate thereto.

14. Provided nevertheless that the said new charter which his Majesty is herein-before impowered to grant, and the jurisdiction, powers, and authorities to be thereby established, shall and may extend to all British subjects who shall reside in the kingdoms or provinces of Bengal, Behar and Orissa, or any of them, under the protection of the said united company, and the same charter shall be competent and effectual ;

and the Supreme Court of Judicature therein and thereby to be established shall have full power and authority to hear and determine all complaints against any of his Majesty's subjects for any crimes, misdemeanours or oppressions, committed or to be committed ; and also to entertain, hear and determine any suits or actions whatsoever against any of his Majesty's subjects in Bengal, Behar and Orissa, and any suit, action or complaint against any person who shall, at the time when such debt or cause of action or complaint shall have arisen, have been employed by, or shall then have been, directly or indirectly, in the service of the said united company, or of any of his Majesty's subjects.

15. Provided also, that the said court shall not be competent to hear, try or determine any indictment or information against the said governor-general, or any of the said council for the time being, for any offence (not being treason or felony) which such governor-general or any of the said

may, by charter or letters patent, establish a Supreme Court of Judicature at Fort William, to consist of a chief justice and three other judges.

Extent of the jurisdiction and powers of his Majesty's charter ;

and the Supreme Court of Judicature.

Indictments and informations against governor-general, etc.

(Secs. 17-25.)

council shall or may be charged with having committed in Bengal, Behar and Orissa.

16. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.) ; rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

The governor-general, council, etc., not subject to be arrested or imprisoned.

17. And it is hereby further enacted and provided, that nothing in this Act shall extend to subject the person of the governor-general or of any of the said council or chief justice and judges respectively for the time being to be arrested or imprisoned upon any action, suit or proceeding in the said court.

18 & 19. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.) ; s. 18 also rep. as to B. I. by VI of 1874, s. 2 and sch., and s. 19 by XIV of 1870, s. 1 and sch.*]

20. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.) ; rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

21 and 22. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.) Omitted as being rendered obsolete by 3 & 4 Will. 4, c. 85, s. 76 ; 24 & 25 Vict., c. 67, s. 4, and c. 104, s. 6.*]

The governor-general or council, etc. shall not accept of any present.

23. And * * * * no governor-general, or any of the council of the said united company's presidency of Fort William in Bengal, or any chief justice, or any of the judges of the Supreme Court of Judicature at Fort William aforesaid, shall, directly or indirectly, by themselves, or by any other person or persons for his or their use or on his or their behalf accept, receive or take, of or from any person or persons, in any manner or on any account whatsoever, any present, gift, donation, gratuity or reward pecuniary or otherwise, or any promise or engagement for any present, gift, donation, gratuity or reward ; * * * *

No person holding a civil or military office under the crown shall accept any donation or gratuity.

24. And * * * * from and after the first day of August one thousand seven hundred and seventy-four no person holding or exercising any civil or military office under the crown or the said united company in the East Indies, shall accept, receive or take, directly or indirectly, by himself or any other person or persons on his behalf, or for his use or benefit, of and from any of the Indian princes or powers, or their ministers or agents (or any of the natives of Asia) any present, gift, donation, gratuity or reward, pecuniary or otherwise, upon any account or on any pretence whatsoever ; or any promise or engagement for any present, gift, donation, gratuity or reward ; * * * *

Counsellors, physicians, surgeons, and chaplains excepted.

25. Provided always * * * * that nothing hereinafter contained shall extend or be construed to extend to prohibit or prevent any person or persons who shall carry on or exercise the profession of a counsellor at law, a physician or a surgeon, or being a chaplain, from accepting, taking or receiving any fees, gratuities or rewards, in the way of their profession.

(Secs. 37-39.)

26 to 29. [*Rep. 24 Geo. 3, Sess. 2, c. 25, s. 47, and 33 Geo. 3, c. 52, s. 146 ; 27 to 29 also rep. as to B. I. by XIV of 1870, s. 1 and sch.*]

30 & 31. [*Rep. as to U.K. 50 & 51 Vict., c. 59 (S. L. R.) ; s. 30 rep. as to B. I. by XXVIII of 1855, s. 1, and s. 31 by XIV of 1870, s. 1 and sch.*]

32. [*Rep. 33 Geo. 3, c. 52, s. 146.*]

33. [*Rep. XIV of 1870, s. 1 and sch.*]

34 & 35. [*Rep. as to U.K. 50 & 51 Vict., c. 59 (S. L. R.) ; s. 34 rep. as to B. I. by X of 1873, s. 2 and sch. S. 35 omitted as being inapplicable to India.*]

36 [*Rep. 55 & 56 Vict., c. 19 (S. L. R.) ; also rep. as to B. I. by XIV of 1870, s. 1 and sch.]*

37 Provided always * * * * that the said governor-general and council shall, and they are hereby required, from time to time, to transmit copies of all such rules, ordinances, and regulations as they shall make and issue to one of His Majesty's principal secretaries of state for the time being, and that it shall and may be lawful to and for his Majesty, his heirs and successors, from time to time, as they shall think necessary, to signify to the said united company, under his or their sign manual, his or their disapprobation and disallowance of all such rules, ordinances and regulations;

and that from and immediately after the time that such disapprobation shall be duly registered and published in the said supreme court of judicature at Fort William in Bengal, all such rules, ordinances and regulations shall be null and void;

but in case His Majesty, his heirs and successors, shall not, within the space of two years from the making of such rules, ordinances and regulations, signify his or their disapprobation or disallowance thereof as aforesaid, that then, and in that case, all such rules, ordinances and regulations shall be valid and effectual and have full force.¹

38 [*Rep. 55 & 56 Vict., c. 19 (S. L. R.) ; also rep. as to B. I. by X of 1852, s. 2 and sch. 1.*]

39. And * * * * if any governor-general, president, or governor or council of any of the said company's principal or other settlements in India, or the chief justice or any of the judges of the said Supreme Court of Judicature to be by the said new charter established, or any other court in any of the said united company's settlements, or any other person or persons who now are or heretofore have been employed by or in the service of the said united company in any civil or military station, office or capacity, or who have or claim, or heretofore have had or claimed, any power or authority or jurisdiction by or from the said united company, or any of his Majesty's subjects residing in India, shall commit any offence against

¹ S. 37 ought perhaps to have been repealed along with section 36. Apparently superseded by 24 & 25 Vict., c. 67, s. 21.

this Act, or shall have been or shall be guilty of any crime, misdemeanour or offence committed against any of his Majesty's subjects, or any of the inhabitants of India, within their respective jurisdictions, all such crimes, offences and misdemeanours may be respectively enquired of, heard, tried and determined in his Majesty's Court of King's Bench;

and all such persons so offending, and not having been before tried for the same offence in India, shall, on conviction, in any such case as is not otherwise specially provided for by this Act, be liable to such fine or corporal punishment as the said court shall think fit, and moreover shall be liable, at the discretion of the said court, to be adjudged to be incapable of serving the said united company in any office, civil or military;

and all and every such crimes, offences and misdemeanours as aforesaid may be alleged to be committed, and may be laid, enquired of and tried, in the county of Middlesex.

Manner of
procedure in
cases of in-
dictments and
informations
laid in the
King's Bench.

40.¹ And whereas the provisions made by former laws for the hearing and determining in England offences committed in India have been found ineffectual, by reason of the difficulty of proving in this kingdom matters done there:

Be it further enacted by the authority aforesaid, that in all cases of indictments or informations laid or exhibited in the said Court of King's Bench for misdemeanours or offences committed in India, it shall and may be lawful for his Majesty's said court, upon motion to be made on behalf of the prosecutor, or of the defendant or defendants, to award a writ or writs of mandamus, requiring the chief justice and judges of the said Supreme Court of Judicature for the time being, or the judges of the Mayor's Court at Madras, Bombay or Bencoolen, as the case may require, who are hereby respectively authorised and required accordingly, to hold a court with all convenient speed for the examination of witnesses and receiving other proofs concerning the matters charged in such indictments or informations respectively; and in the mean time to cause such publick notice to be given of the holding the said court, and to issue such summons or other process as may be requisite for the attendance of witnesses, and of the agents or counsel of all or any of the parties respectively, and to adjourn from time to time as occasion may require;

and such examination as aforesaid shall be then and there openly and publickly taken vivâ voce in the said court, upon the respective oaths of witnesses and the oaths of skilful interpreters, administered according to the forms of their several religions; and shall, by some sworn officer of such court, be reduced into one or more writing or writings on parchment, in case any duplicate or duplicates should be required by or on behalf of any of the parties interested, and shall be sent to his Majesty, in his Court of King's Bench

¹ *Ss.* 40-45 extended by 22 & 23 Vict., c. 21, s. 16. See Chitty's *Statutes*, Tit. Evidence; *Taylor on Evidence*, Ed. 9, § 500.

(Secs. 41-42.)

closed up, and under the seals of two or more of the judges of the said court and one or more of the said judges shall deliver the same to the agent or agents of the party or parties requiring the same; which said agent or agents (or, in case of his or their death, the person into whose hands the same shall come,) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench, in the publick office, and make oath that he received the same from the hands of one or more of the judges of such court in India (or, if such agent be dead, in what manner the same came into his hands); and that the same has not been opened or altered since he so received it (which said oath such clerk in court is hereby authorised and required to administer):

and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read, and shall be deemed as good and competent evidence as if such witness had been present and sworn and examined *vivâ voce* at any trial for such crimes or misdemeanours as aforesaid in his Majesty's said Court of King's Bench, any law or usage to the contrary notwithstanding; and all parties concerned shall be intitled to take copies of such depositions at their own costs and charges.

41. And * * * * in case the said chief justice or judges of the said Supreme Court of Judicature, or any of them, for the time being, shall commit any offence against this Act, or be guilty of any corrupt practice or other crime, offence, or misdemeanour in the execution of their respective offices, it shall and may be lawful for his Majesty's said Court of King's Bench in England, upon an information or indictment laid or exhibited in the said court for such crime, offence or misdemeanour, upon motion to be made in the said court, to award such writ or writs of mandamus as aforesaid, requiring the governor-general and council of the said united company's settlement at Fort William aforesaid, who are hereby respectively authorised and required accordingly, to assemble themselves in a reasonable time, and to cause all such proceedings to be had and made as are herein-before respectively directed and prescribed concerning the examination of witnesses; and such examination so taken shall be returned and proceeded upon in the same manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again repeated.

42. And * * * * in all cases of proceedings in Parliament touching any offences against this Act, or any other offences committed in India, it shall and may be lawful for the lord high chancellor or speaker of the House of Lords, and also for the speaker of the House of Commons for the time being, in like manner to issue his or their warrant or warrants to the governor-general and council of the said united company's presidency of Fort William, The chan-
cellor, or
speaker of
the House of
Commons,
may issue
warrants for
the examina-
tion of

witnesses in India; which shall be deemed competent evidence to both houses of Parliament.

and to the chief justice and judges of the said Supreme Court of Judicature, or the judges of the Mayor's Court at Madras, Bombay or Bencoolen, as the case may require, for the examination of witnesses;

and such examination shall be returned to the said lord high chancellor or speaker of the House of Lords, or to the speaker of the House of Commons respectively, and proceeded upon in the same manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again particularly repeated; and every such examination, returned either to the lord chancellor or speaker of the House of Lords, or to the speaker of the House of Commons as aforesaid, shall be deemed good and competent evidence, and shall be allowed and read in both houses of Parliament, or either of them respectively, as occasion may require, any law or usage to the contrary notwithstanding.

43. And whereas by the usage and custom of Parliament, no proceedings by bill in Parliament have continuance from one session to another:

And whereas it would be impracticable that the examination taken upon such warrant as aforesaid could ever be returned within the ordinary length of a session of Parliament:

No proceedings in Parliament touching offences in India to be discontinued by prorogation or dissolution.

Be it enacted by the authority aforesaid, that from and after the first day of November one thousand seven hundred and seventy-three, no proceedings in Parliament touching any offence committed or to be committed in India, wherein such warrant as aforesaid shall have been issued, shall be discontinued by any prorogation or dissolution of the Parliament, but that such proceedings may be resumed and proceeded upon in a subsequent session or in a subsequent Parliament, in either house of Parliament, in like manner to all intents and purposes as they might have been in the course of one and the same session, any law, usage or custom to the contrary notwithstanding.

Writs of mandamus may be awarded by the courts at Westminster, when the company commence suits in law or equity there, for examination of witnesses as in India.

44. And whereas his Majesty's subjects are liable to be defeated of their several rights, titles, debts, dues, demands or suits for which they have cause arising in India against other subjects of his Majesty:

Now, for preventing such failure of justice, be it further enacted by the authority aforesaid, that when and as often as the said united company, or any person or persons whatsoever, shall commence and prosecute any action or suit in law or equity, for which cause hath arisen or shall hereafter arise in India, against any other person or persons whatever, in any of his Majesty's courts at Westminster, it shall and may be lawful for such court respectively, upon motion there to be made, to provide and award such writ or writs in the nature of a mandamus or commission as aforesaid to the chief justice and judges of the said Supreme Court of Judicature for the time being, or the judges of the Mayor's Court at Madras,

13 Geo. 3, c. 63.] *The East India Company Act, 1772. (secs. 45-47.)* 17

21 Geo. 3, c. 70.] *The East India Company Act, 1750. (Preamble.)*

Bombay, or Bencoolen, as the case may require, for the examination of witnesses as aforesaid;

and such examination, being duly returned, shall be allowed and read, and shall be deemed good and competent evidence, at any trial or hearing between the parties in such cause or action, in the same manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again repeated.

45. Provided nevertheless * * * * that no such depositions taken and returned as aforesaid by virtue of this Act shall be allowed or permitted to be given in evidence in any capital cases other than such as shall be proceeded against in Parliament, anything in this Act contained to the contrary notwithstanding.

No depositions returned to be allowed as evidence in capital cases not proceeded against in Parliament.

46. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

47. And be it further enacted by the authority aforesaid that this Act shall be deemed and taken to be a public Act, of which notice shall be judicially taken by all judges, justices and other persons whatsoever, without specially pleading the same.¹

Public Act.

THE EAST INDIA COMPANY ACT, 1780.²

(21 Geo. 3, c. 70.)

An Act to explain and amend so much of an Act made in the Thirteenth Year of the Reign of his present Majesty, intituled "An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe," as relates to the Administration of Justice in Bengal; and for the relief of certain Persons imprisoned at Calcutta in Bengal under a Judgment of the Supreme Court of Judicature; and also for indemnifying the Governor-General and Council of Bengal, and all Officers who have acted under their Orders or Authority, in the undue Resistance made to the Process of the Supreme Court.

WHEREAS, in virtue of an Act passed in the thirteenth year of his present Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," his Majesty, by his royal letters patent of the twenty-sixth day of March, in the fourteenth year of his reign, did create and constitute a

Preamble.
Recital of
13 Geo. 3,
c. 63.

¹ S. 47 was repealed as to the U. K. by 50 & 51 Vict., c. 59 (S. L. R.). It may be a question whether, with reference to s. 57 (2) of the Indian Evidence Act, 1872 (1 of 1872), it ought not to be retained in the Indian Statute-book.

² Ext. Act XXIII of 1850, s. 12; Act XII of 1851, s. 16. For digest and notes, see *Ilbert's Government of India*, pp. 282-283.

(Secs. 2-3.)

court of record, to be within the factory of Fort William at Calcutta in Bengal, called the Supreme Court of Judicature at Fort William in Bengal, with sundry directions, powers, and authorities to the said court in the said letters patent set forth and expressed:

And whereas many doubts and difficulties have arisen concerning the true intent and meaning of certain clauses and provisions in the said Act and letters patent, and by reason thereof dissension hath arisen between the judges of the Supreme Court and the governor-general and council of Bengal, and the minds of many inhabitants subject to the said government have been disquieted with fears and apprehensions, and further mischiefs may possibly ensue from the said misunderstandings and discontents if a reasonable and suitable remedy be not provided:

And whereas it is expedient that the lawful government of the provinces of Bengal, Behar and Orissa should be supported that the revenues thereof should be collected with certainty and that the inhabitants should be maintained and protected in the enjoyment of all their ancient laws, usages, rights and privileges:

The governor general and council of Bengal not to be subject to the Supreme Court.

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the governor general and council of Bengal shall not be subject, jointly or severally, to the jurisdiction of the Supreme Court of Fort William in Bengal for or by reason of any act or order, or any other matter or thing whatsoever counselled, ordered or done by them in their publick capacity only, and acting as governor-general and council.

Persons impleaded in the Supreme Court for acts done by order of the governor-general, etc., may plead the general issue, etc.

2. And * * * * if any person or persons shall be impleaded in any action or process, civil or criminal, in the said Supreme Court for any act or acts done by the order of the said governor-general and council in writing, he or they may plead the general issue, and give the said order in evidence; which said order, with proof that the act or acts done has or have been done according to the purport of the same, shall amount to a sufficient justification of the said acts, and the defendant shall be fully justified, acquitted and discharged from all and every suit, action and process whatsoever, civil or criminal, in the said Court.

Proviso.

3. Provided always, that with respect to such order or orders of the said governor-general and council as do or shall extend to any British subject or subjects, the said court shall have and retain as full and competent jurisdiction as if this Act had never been made.

(Secs. 4-5.)

4. Provided also, that nothing herein contained shall extend or be construed to extend to discharge or acquit the said governor-general and council, jointly or severally, or any other person or persons acting by or under their order, from any complaint, suit or process before any competent court in this kingdom, or to give any other authority whatsoever to their acts than acts of the same nature and description had by the laws and statutes of this kingdom before this Act was made.

The governor-general, etc., to remain liable to any complaint before a competent court in this kingdom.

5. And in order to prevent all abuse of the powers given to the governor-general and council, be it further enacted, that in case any person by himself or his attorney or counsel shall make a complaint to the Supreme Court, and enter the same in writing, and upon oath, of any oppression or injury, charging the same to be committed by the said governor-general or any member or members of the council, or any other person or persons by or in virtue of any order given by the said governor-general and council, and shall execute a bond with some other person whom the said court shall deem responsible jointly and severally, to the United East India Company, in such a penalty as the court shall appoint, effectually to prosecute the said complaint by indictment, information or action in some competent court in Great Britain, within two years of the making of the same, or of the return into Great Britain of the party or parties against whom the same is made, that then and in such case the party complaining shall be and is hereby enabled to compel by order of the court the production in the said Supreme Court of true copy or copies of the order or orders of council complained of, and to have the same authenticated by the court, and to examine witnesses upon the matter of the said complaint, and also on the part of the person or persons complained of;

If any person making complaint to the Supreme Court against the governor-general, etc., shall execute a bond to the company to prosecute the same in some competent court in Great Britain, etc.,

such person may compel, by order of the court, the production of copies of the orders complained of, etc.

and the said parties, as well complaining as complained of, shall have and enjoy severally all manner of advantages, rights and privileges relative to proof of the said complaint or defence, and also relative to any mandamus or commission to be issued by any of his Majesty's courts in Westminster-hall, in case the court upon motion shall think fit to issue the same, as are provided in case of any suit in such cases by an Act of the thirteenth year of his Majesty's reign, intituled 'An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe ;'

and the Supreme Court shall have the same powers for the compelling witnesses to appear and be examined, and the same rules and directions shall be observed for the transmitting the depositions of witnesses and other papers to this kingdom, as are provided by the said recited Act.

(Secs. 6-18.)

Authenticated copies of orders, etc., shall be received in evidence in the courts at Westminster, 6. And * * * * all copies so authenticated of orders of the said governor-general and council, and also the depositions which shall have been taken in manner aforesaid before the Supreme Court, shall be received in evidence in any of his Majesty's courts of law or equity at Westminster.

Limitation of actions, 7. And * * * * no prosecution or suit shall be carried on against the said governor-general or any member of the council before any court in Great Britain (the High Court of Parliament only excepted), unless the same shall be commenced within five years after the offence committed, or within five years after his arrival in England.

Supreme Court not to have any jurisdiction in any matter concerning the revenue, 8. And * * * * the said Supreme Court shall not have or exercise any jurisdiction in any matter concerning the revenue, or concerning any act or acts ordered or done in the collection thereof, according to the usage and practice of the country, or the regulations of the governor-general and council.

9 to 16. [*Rep. 55 & 56 Vict., c. 19 (8. L. R.); also rep. as to B. I. by XIV of 1870, s. 1 and sch.*]

How the Supreme Court shall determine actions between Mahomedan and Gentû inhabitants of Calcutta, 17. Provided always * * * that the Supreme Court of Judicature at Fort William in Bengal shall have full power and authority to hear and determine in such manner as is provided for that purpose in the said charter or letters patent all and all manner of actions and suits against ail and singular the inhabitants of the said city of Calcutta ;

Provided that their inheritance and succession to lands, rents and goods, and all matters of contract and dealing between party and party, shall be determined in the case of Mahomedans by the laws and usages of Mahomedans, and in the cases of Gentûs by the laws and usages of Gentûs; and where only one of the parties shall be a Mahomedan or Gentû, by the laws and usages of the defendant.

The authority of fathers and masters of families among the natives to be preserved, etc. 18. And in order that regard should be had to the civil and religious usages of the said natives, be it enacted, that the rights and authorities of fathers of families and masters of families according as the same might have been exercised by the Gentû or Mahomedan law shall be preserved to them respectively within their said families ;

nor shall any acts done in consequence of the rule and law of caste respecting the members of the said families only be held and adjudged a crime although the same may not be held justifiable by the laws of England.

(Sec. 64.)

19 to 26. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.) ; XIV of 1870, s. 1 and sch.*]27 & 28. [*Rep. 35 & 36 Vict., c. 63 (S. L. R.).*]THE EAST INDIA COMPANY ACT, 1784.¹

(24 Geo. 3, Sess. 2, c. 25.)

An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India, and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of offences committed in the East Indies.

1 to 63. [*Rep. 35 & 36 Vict., c. 63 (S. L. R.).*]

64. And whereas it would conduce to the better government, management and ordering of the territories, possessions, revenues and commerce of the said united company² if some more effectual course than the common law hath provided were devised for the prosecuting and bringing to speedy and condign punishment persons guilty of the crime of extortion and other misdemeanors committed in the East Indies by British subjects holding offices or employments there under his Majesty, his heirs or successors, or under the said united company :

Method of procedure against British subjects who shall be guilty of extortion or other misdemeanors in the East Indies.

Be it therefore enacted by the authority aforesaid, that it shall and may be lawful to and for the coroner and attorney of our lord the King in the Court of King's Bench, by rule of the Court of King's Bench, to be obtained upon motion to be made for that purpose at the instance of any person or persons (and which rule the said court is hereby empowered to grant at their discretion, if the magnitude and circumstances of the case shall appear to the said court to render it proper), or for his Majesty's attorney general, or for the court of directors or court of proprietors of the said united company in the name of the said united company, to exhibit in the said Court of King's Bench an information against any such person for any such offence as aforesaid committed after the first day of March one thousand seven hundred and eighty-five ;

whereupon the said court shall and may, at the instance of the prosecutor, cause the party against whom such information shall have been

¹ This Act is commonly known as Pitt's Act. It first constituted the Board of Control. For digest and notes, see *Ilbert's Government of India*, pp. 283—284.

² i.e., the United Company of Merchants trading to the East Indies.

(Secs. 65-66.)

exhibited as aforesaid to be attached, and may and shall order him to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said court, there to be detained until he shall be delivered by due course of law, or until he, together with two sufficient sureties, shall have entered into a recognizance unto the King's Majesty, his heirs and successors, in such sum of money and with such condition for his appearance and for satisfying the judgement to be pronounced in and upon such information, as to the said court in its discretion shall seem meet;

and when the defendant shall have appeared and pleaded to the said information, the chief justice or some of the justices of the said Court of King's Bench shall within ten days (unless any mandamus shall be granted for the examination of witnesses as herein-after provided, upon a motion to be made within a time to be limited by the said Court of King's Bench for that purpose) deliver the record of the said information and plea to the lord high chancellor of Great Britain, or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall thereupon issue a commission under the said great seal in manner herein-after provided.

65. And * * * * if any person or persons against whom any information shall be exhibited under the authority of this Act shall neglect, or refuse, within such respective times as shall be allowed to him or them for those purposes by the rules or according to the discretion of the said court, to appear and plead not guilty to such information, it shall and may be lawful for his Majesty's attorney general or other prosecutor to cause an appearance and the plea of not guilty to be entered for such person or persons, and the said information shall thereupon proceed as if the party or parties had appeared and pleaded not guilty thereto.

Constitution of
Commission.

66. And * * * * within thirty days from the commencement of the next and every future session of Parliament, the lords spiritual and temporal shall proceed to chuse, nominate and appoint twenty-six or more members of their house, and the commons of Great Britain, in Parliament assembled, forty or more members of the said House of Commons, to be chosen by ballot;

and the speaker of each house respectively shall cause the list of the said names so chosen to be transmitted under their respective hands and seals to the clerk of the Crown in Chancery or his deputy;

and * * whenever a commission is to be issued under the great seal of Great Britain by virtue of this Act the lists so returned shall be delivered over to such three judges of the courts of King's Bench, Common Pleas or Ex-

(Sec. 67.)

chequer, as the said courts shall for that purpose respectively appoint, one judge being nominated from each of the said courts respectively ;

and if the said lists shall contain more than twenty-six members of the House of Lords or forty of the House of Commons respectively, the said judges shall, within three days from the receipt thereof, cause the names contained in the said list or lists of either or both houses respectively (as the case may happen) to be put into a box or boxes, and twenty-six names of the said peers and forty names of the said commons to be publickly drawn by lot in the presence of the said judges ;

and * * the said three judges shall have power and authority, and they are hereby required to give notice to all such members of the two houses of Parliament, whose names shall have been so returned or drawn by lot as aforesaid, and also to his Majesty's attorney general or other prosecutor, an also to the party accused, as the case may require, of the time and place to be appointed by the said judges (not exceeding twenty days from such lists being delivered to them as aforesaid) for proceeding in the execution of this Act, and the names of all such members of either House of Parliament as shall not attend in consequence of such notice shall be transmitted to the speaker of each house respectively within three days if Parliament be then sitting, or if not, within three days after the next meeting of Parliament;

and all such persons as shall appear to have made default as aforesaid shall forfeit to his Majesty, his heirs and successors, the sum of five hundred pounds each, unless they shall offer such excuses as shall appear to each House of Parliament respectively to be valid and sufficient ;

and if any member of either House of Parliament whose name shall have been drawn by lot in the presence of the said judges as aforesaid shall have departed this life, or shall hold any civil office of profit under the crown during his Majesty's pleasure, or shall be or shall have been a member of the said board for the affairs of India, ¹ or shall be or shall have been a director of the said company, or shall hold or shall have held any office or employment in the service of the said company in India, then in each and every such case another name shall be drawn out of the same box (if any such name there be) instead of the name of such person.

67. And * * * the senior of the said three judges present at the respective meetings of the said special commissioners shall be the president of such meeting or meetings, and * * all questions, resolutions and

The senior judge present to be president of the meeting.

¹ i. e., the Board of Commissioners for the Affairs of India.

(Secs. 68-69.)

determinations before the said special commissioners shall be by a majority of voices of the special commissioners then and there present ;

and if the voices shall be equal, the then president shall have a second or casting voice.

Manner of
choosing the
twenty-six
members of
the House of
Peers.

68. And * * * * the members of the House of Peers hereby directed to be named by the said house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following; (that is to say,) * * at any time within thirty days from the commencement of the next and every future session of Parliament, when it shall appear that there are fifty lords spiritual and temporal at the least then present, the lords shall be called, and if there are fifty present the lords shall thereupon proceed to deliver in at the table lists, each of which lists shall contain the names of twenty-six lords, and shall be signed by the lord who delivers such list, which list being delivered in shall be referred to a committee of lords to be then appointed, who shall examine the said lists, and forthwith report to the house the name of every such lord whose name shall appear on ten such lists ;

and if the names so returned shall not amount to twenty-six at the least, the lords present shall be required to deliver in fresh lists, each list containing a number of names equal to that number by which the list returned shall fall short of twenty-six, and so as often as the case shall happen ; and no lord present when the house shall be called over shall depart until the said lists of twenty-six peers shall be made as aforesaid.

Manner of
choosing the
forty members
of the House
of Commons.

69. And * * * * the members of the House of Commons hereby directed to be named by that house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following ; (that is to say,) * * at any time within thirty days from the commencement of the next and every future session of Parliament (and after the speaker of the said house shall have taken the chair), it shall and may be lawful for any member after four of the clock in the afternoon to require that the doors of the house shall be locked, and that the house shall be told by the speaker ;

and if it shall appear that there are two hundred members or more then present the members of the house shall thereupon proceed to deliver in at the table lists, each of which lists shall contain the names of forty members, which lists being delivered in shall be referred to a committee of five members to be then appointed, who shall examine the said lists, and shall forthwith report to the house the name of every such member whose name shall appear on twenty of the said lists ;

and if the names so returned shall not amount to forty at the least the members present shall be required to deliver in fresh lists, each list containing

(Secs. 70-71.)

a number of names equal to that number by which the list returned shall fall short of forty, and so as often as the case shall happen; and the doors of the house shall not be opened until the said list of forty members or more shall be fully completed in manner aforesaid.

70 Provided always * * * * that if any of the persons named in such lists shall appear to hold any civil office of profit under the crown during his Majesty's pleasure, or to be or to have been a member of the said board for the affairs of India, or to be or to have been a director of the said company, or to hold or to have held any office or employment in the service of the said company in India, the names of all and every such persons shall be struck out of the said list returned to the house by the said committee upon such list being read over the table.

Names of persons holding offices under the crown during pleasure, etc., to be struck out of the list.

1. And * * * * the names of all such members of either House of Parliament contained in the said lists of twenty-six peers and of forty commoners, which shall have been drawn by lot in presence of the three judges as aforesaid, as shall personally appear at the time and place appointed as aforesaid, shall be put into a box, to be drawn out by lot in presence of the said judges and of the parties or their counsel or agents;

The party to be tried shall have liberty to challenge thirteen peers and twenty commoners.

as the person against whom such information shall have been exhibited as aforesaid shall have the liberty, as the said names are drawn out, to make peremptory challenges to the number of thirteen of the peers and twenty of the members of the House of Commons whose names shall have been put into the said box; and his Majesty's attorney general or other prosecutor, as the case may happen, shall have power to make challenges to any of the names which shall be so drawn out, and to assign for cause of challenge any such matter as in the opinion of the three judges or the majority of them shall appear in their discretion sufficient to set them aside for the purpose of obtaining them equity justice;

Prosecutor may also make challenges.

and the first four names of the said peers, and likewise the first six names of the said commoners, which shall be drawn out after the said number of challenges respectively, or which, being drawn out, shall not be so challenged, shall be returned by the said judges to the lord high chancellor, who shall cause the names of the said peers and members of the House of Commons, together with those of the said three judges appointed as aforesaid, to be inserted in a special commission to be issued by virtue of this Act;

The first four names of the peers, and the first six of the commoners, drawn out after the challenges, etc., shall be returned by the three judges to the lord chancellor, to be inserted, with those of the said judges,

and the persons whose names are so inserted in the commission shall appear within ten days at the time and place to be appointed by the said three judges, and take the following oath before the lord high chancellor or lord

(Sec. 72.)

in a special
commission,
etc.

Oath to be
taken by the
special com-
missioners.

keeper or lords commissioners of the great seal for the time being, or any one of them.

I, A. B., do swear, that I will well and truly try and determine to the best of my judgement, the matter now to be brought before me, according to the evidence that shall be given.

So help me GOD;

And in case the challenges shall reduce the number of names so drawn out to less than four peers and six commoners respectively, then and in such case the said three judges shall certify the same to the respective houses of Parliament, who shall proceed with all convenient dispatch to appoint and ballot afresh for lists of members to be transmitted to the clerk of the crown or his deputy, and afterwards to be inserted in a new commission to be issued in the manner herein-before directed ;

Their powers.

and the said special commissioners shall have full power and authority to hear and determine every such information, and to pronounce judgement thereon, according to the effect of the judgement of the common law upon convictions had and obtained according to the course of the common law for extortion or other misdemeanor ; and also to declare the party so convicted incapable of serving the said united company in any capacity whatsoever ;

Their proceedings not to be removed by certiorari, etc.

and that such judgement, to be pronounced by the said special commissioners as aforesaid in and upon such information, shall be good and actual and conclusive to all intents and purposes whatsoever ; and that no writ or writ shall be granted by any court whatsoever for removing the proceedings of the said special commissioners on such information into any court whatsoever ;

and the proceedings of the said special commissioners shall not be impeached, or the validity thereof questioned, in any action or suit or other proceeding in any court of law or equity whatsoever.

Seven commissioners to make a quorum.

72. Provided always * * * * that it shall and may be lawful to and for the said special commissioners, or any seven or more of them (of whom one of the said three judges at the least shall always be one) to hear and determine every such information, and from time to time to adjourn as they shall think fit ;

When the commissioners shall, by death, etc., be reduced to six, the commission shall be void, and a new one awarded.

and in case any number of the said special commissioners shall be the said commission shall have been fully executed depart this life or be rendered incapable of acting so that the number of the said special commissioners shall be reduced to six, or if all the said three judges shall happen to die or be rendered incapable of acting whilst the said commission shall be depending then and in either of such cases and from thenceforth the said commission shall be at an end and the force and effect thereof shall cease, and a new commission shall be awarded for

(Secs. 73-75.)

hearing the matter of such information for which such former commission was issued, and the proceedings therein shall begin de novo, save only and except with respect to the examination or deposition of any witnesses (if any) which shall have been taken in writing under the said former commission, which examinations or depositions shall and may be received and admitted as evidence under such new commission ;

73. And * * * * the said special commissioners shall Commissioners to appoint nominate and appoint a fit and proper person or persons to act as their a register. register or registers in the execution of the said commission ;

and when and so soon as the said commission shall have been fully Proceedings to be delivered over to clerk of crown, etc. executed, the said commission and the information and plea and the judgement had thereupon and all the depositions and examinations and other proceedings concerning the premises shall be delivered over by such register or registers unto the clerk of the crown in the Court of King's Bench, to be kept and recorded in that court.

74. And * * * * subpoenas requiring the attendance Subpoenas may be issued for the attendance of witnesses. before the special commissioners to be appointed under this Act of any witness or witnesses as or on behalf of any person or persons prosecuted under the authority of this Act, may be issued out of the Crown Office of the Court of King's Bench ;

and in case any witness having due notice of such subpoena shall not attend in obedience to such subpoena his non-attendance shall be deemed a Non-attendance to be deemed a misdemeanor. misdemeanor and subject him to be indicted ;

and in case any such witness shall attend, but shall refuse to be examined, Punishment for refusal to be examined. it shall and may be lawful for the said special commissioners to punish such witness by fine or imprisonment at their discretion.

75. And * * * * the said special commissioners shall Commissioners may send for persons, papers and records, etc. have full power and authority by virtue of this Act to send for persons, papers and records, and to examine all witnesses who shall come or be brought before them upon oath, to be taken before them, and to cause the examinations of such witnesses, if they shall so think fit, to be reduced into writing, and to be signed and subscribed by such witnesses respectively ;

and if any person brought before the said special commissioners shall and may commit prevaricators to the Fleet, etc. prevaricate in his evidence or shall otherwise misbehave himself before the said special commissioners, the said special commissioners shall and may, if they shall so think fit, commit such person to the prison of the Fleet or the gaol of Newgate, there to remain for such time as the said special commissioners shall appoint, unless the said commissioners shall order them to be released sooner, which they are hereby empowered to do ;

(Secs. 76-78.)

False evidence to be per jury. and if any such witness shall wilfully give any false evidence before the said special commissioners, such witness shall be deemed guilty of wilful and corrupt perjury, and shall and may be indicted and punished for the same accordingly.

The recognizance aforesaid shall bind all the goods and lands of the principal party at the time of entering into the same, etc.

76. And * * * * the recognizance to be entered into as aforesaid shall bind the property of all and singular the goods and chattels which were the goods and chattels of the principal party entering into such recognizance at the time of his entering into the same, or which he shall or may acquire at the time afterwards, and before he shall be discharged from such recognizance ;

and shall also bind all estate and interest in all lands, tenements, and hereditaments, whereof the said principal party shall be seised or possessed, or whereof any person or persons in trust for the party so entering into such recognizance (at the time of his entering into the same or at any time afterwards and before he shall be discharged therefrom) shall be seised or possessed.

Where the party shall be found guilty and adjudged to pay a fine, he may be examined by interrogatories in the Court of Exchequer as to his estate and effects.

77. And * * * * where the party against whom such information shall have been exhibited as aforesaid shall be adjudged to be guilty of the crime charged in such information, and shall be adjudged to pay a fine unto his Majesty, his heirs and successors, * * it shall and may be lawful for his Majesty's attorney general or for the said united company or other prosecutor to exhibit interrogatories before the Court of Exchequer for the examination of the party adjudged to pay such fine as aforesaid, as to his estate and effects sufficient to answer the same fine ;

If he shall not appear, or refuse to answer, etc., he shall forfeit all his estate and be committed.

and if the said party shall not appear or shall refuse to answer to such interrogatories, or shall wilfully conceal any part of his estate or effects herein-before declared to be bound by such recognizance as aforesaid, or which shall by law be liable to be extended in satisfaction thereof, such party, on his default of appearance before such court, or on his refusal to answer such interrogatories, shall forfeit to the king's Majesty, his heirs and successors, all and singular his goods and chattels, lands, tenements and hereditaments whatsoever, and shall be liable to be imprisoned in the gaol of Newgate or the Tower of London for such time as the said Court of Exchequer shall direct.

Depositions of witnesses may be taken in India, and transmitted to the Court of

78. And whereas the provisions made by former laws for the hearing and determining in England offences committed in India have been found ineffectual by reason of the difficulty of proving in this kingdom matters done there ;

(Sec. 78.)

Be it further enacted by the authority aforesaid, that in all cases of informations laid or exhibited by virtue of this Act in the said Court of King's Bench for misdemeanors or offences committed in India it shall and may be lawful for his Majesty's said court, upon motion to be made on behalf of his Majesty's attorney general or other prosecutor or of the defendant or defendants, to award a writ or writs of mandamus requiring the chief justice and judges of the supreme court at Fort William in Calcutta for the time being, or the judges of the mayor's court of any of the British settlements in India, as the case may require, who are hereby respectively authorized and required accordingly, to hold a court with all convenient speed for the examination of witnesses and receiving other proofs concerning the matters charged in such informations respectively; and in the mean time to cause such publick notice to be given of the holding the said court, and to issue such summons or other process as may be requisite for the attendance of witnesses and of the agents or counsel of all or any of the parties respectively, and to adjourn from time to time as occasion may require, and such examination as aforesaid shall be then and there openly and publickly taken vivâ voce in the said court upon the respective oaths of witnesses and the oaths of skilful interpreters, administered according to the forms of their several religions, and shall by some sworn officer of such court be reduced into one or more writing or writings on parchment, in case any duplicate or duplicates should be required by or on behalf of any of the parties interested, and shall be sent to his Majesty in his Court of King's Bench closed up and under the seals of two or more of the judges of the said supreme court, and one or more of the judges of the said supreme court shall deliver the same to the agent or agents of the party or parties requiring the same; which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench in the publick office, and make oath that he received the same from the hands of one or more of the judges of such court in India (or in what manner the same came into his hands), and that the same has not been opened or altered since he so received it (which said oath such clerk in court is hereby authorized and required to administer);

King's Bench,
and read
before the
special com-
missioners,
and shall be
deemed
competent
evidence.

and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read before the said special commissioners, and shall be deemed as good and competent evidence as if such witness had been present and sworn and examined vivâ voce at any trial before the said special commissioners for such crimes or misdemeanors as aforesaid, any law or usage to the contrary notwithstanding;

(Secs. 79-81.)

and all parties concerned shall be entitled to take copies of such depositions at their own costs and charges ;

Chief justice of the King's Bench, etc., to deliver the deposition, etc., to the lord chancellor.

and the chief justice of the said Court of King's Bench or one of the judges of the said court shall with all convenient speed after such deposition shall have been so received, together with the said information and plea, cause the same to be delivered over to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall thereupon issue the commission under the great seal in the manner by this Act directed.

Delivery thereof to be during term.

79. Provided always * * * * that no information or plea, or deposition which by this Act is directed to be delivered over by the chief justice of the Court of King's Bench or one of the judges of the said court to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, shall be so delivered over at any other time than during some one of the three usual and accustomed terms herein-after mentioned, that is to say, Hilary term, Easter term or Michaelmas term.

Writings received by the court of directors from India, and copies of writings sent by the court to their servants there, relative to the charge in the information, etc., may be admitted by the Commissioners as evidence.

80. And in order to promote the ends of justice in ascertaining facts committed at so great a distance from this country by such evidence as the nature of the case will render practicable ;

Be it further enacted, that in all proceedings upon such information as aforesaid as well the depositions taken under such commission or commissions after the publication thereof, as also all writings which shall have been transmitted from the East Indies to the court of directors of the said united company by their officers or servants resident in the East Indies in the usual course of their correspondence with the said court of directors, and copies of all writings which shall have been transmitted by the said court of directors or by any committee thereof to the officers and servants of the said united company resident in the East Indies, and which in any manner relate to the subject matter of the charge to be contained in such information or to the defence to be made thereto, may be admitted by the said commissioners to be offered in evidence, and shall not be deemed inadmissible or incompetent unless upon objections arising from the nature of the contents of the said writings, subject nevertheless to be impeached in point of credibility by such observations and objections as the nature of such evidence or other circumstances may suggest, any rule of the common law to the contrary notwithstanding.

Court of King's Bench, at the prayer of the prose-

81. And * * * * the said Court of King's Bench shall have power and authority at the prayer of his Majesty's attorney general or other prosecutor or of the party against whom such information shall be exhi-

24 Geo. 3, sess. 2, c. 25.] *The East India Company Act, 1784. (Secs. 82-85.)* 31

26 Geo. 3, c. 57.] *The East India Company Act, 1786. (Preamble.)*

bited, to order an examination de bene esse of witnesses upon interrogatories to be had and taken before an examiner to be by them appointed for that purpose, or by commission as the case shall require, and to cause the depositions of such witnesses to be published when the same shall appear to them to be proper and necessary, and which depositions shall be afterwards admitted to be read in evidence before the said commissioners, and shall be deemed good and sufficient evidence in the law as aforesaid; saving all just exceptions to be taken to such depositions when the same shall be offered to be read as aforesaid.

cutor, etc.,
may order an
examination
de bene esse of
witnesses
upon interro-
gatories, etc.

82. And * * * * no Limitation of
prosecution in consequence of this Act shall be commenced unless within the
space of three years after the return of the party prosecuted into Great Britain,
or within three years after the delivery of the inventory or particular required
by this Act.

83. Provided always * * * * that nothing herein con- Not to affect
tained shall extend or be construed to extend to prejudice or affect the rights the claims
or claims of the publick or the said united company respecting the said territo- respecting the
rial acquisitions and revenues. territorial
acquisitions.

84. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.) Omitted as
being spent.*]

85. And * * * * this Act shall, and shall be deemed and Public Act.
taken to be, a public Act.¹

THE EAST INDIA COMPANY ACT, 1786.²

(26 Geo. 3, c. 57.)

*An Act for the further regulation of the Trial of Persons accused of certain
Offences committed in the East Indies; * * * * ; and
for the more easy Proof, in certain cases, of Deeds and Writings executed
in Great Britain or India.*

WHEREAS by an Act made in the twenty-fourth year of his Majesty's reign, Preamble.
intituled "An Act for the better regulation and management of the affairs of Recital of Act
the East India Company and of the British possessions in India, and for es- 24 Geo. 3,
tablishing a Court of Judicature for the more speedy and effectual trial of sess. 2, c. 25.
persons accused of offences committed in the East Indies," divers provisions
were made and enacted for the more effectually prosecuting and bringing to
speedy and condign punishment the crime of extortion and other misdemeanors

¹ S. 85 was repealed as to the U. K. by 50 & 51 Vict., c. 59 (S. L. R.). It may be a ques-
tion whether, with reference to s. 57 (2) of the Indian Evidence Act, 1872 (1 of 1872), it ought
not to be retained in the Indian Statute-book.

² For digest and notes, see Ilbert's *Government of India*, p. 284.

(Preamble.)

committed in the East Indies by British subjects in the service of his Majesty or of the said company, and particularly for constituting a special court of judicature for the trial of any information to be exhibited in his Majesty's Court of King's Bench against such offenders, under and by virtue of a commission to be awarded under the great seal of Great Britain, directed to four members of the House of Peers, six members of the House of Commons, and three of the judges of his Majesty's courts of law at Westminster, such members and judges to be selected and chosen in the manner prescribed by the said Act; and the said special commissioners to be so constituted by such commission, or any seven or more of them (of whom one of the said three judges was to be one), were by the said Act invested with full power and authority to hear and determine every such information, and to pronounce judgement thereon according to the effect of the judgement at common law upon convictions had and obtained according to the course of the common law for extortion and other misdemeanor:

And whereas the selection of the members of the said respective Houses of Parliament for the purposes aforesaid may be rendered more easy and convenient:

And whereas it is judged expedient that instead of seven not less than ten commissioners to be constituted by such commission as aforesaid should have authority to hear and determine any such information, and for that purpose that a greater number of members of each House of Parliament than is directed by the said Act should, together with the said three judges, be named and authorized as commissioners in and by such commission:

And whereas it is also expedient that for giving greater vigour and efficacy to the proceedings and judgements of the said special commissioners further regulations should be provided and established:

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the members of the House of Lords by the said Act directed to be named by the said house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following and no otherwise, any thing in the said recited Act contained to the contrary notwithstanding; (that is to say,) that within the first thirty sitting days of the House of Lords in every future session of Parliament the members of the said house or any of them may respectively deliver in at the table lists inclosed in covers sealed up, and having the words "East India Judicature" and their respective names or titles of honour by which they are generally

Within the first thirty sitting days of each house in every session lists of twenty-six names to

(Sec. 2.)

known and distinguished indorsed on the outside thereof in their respective proper hand writing, every such list containing the names or titles of twenty-six peers; be delivered in, sealed up, by the members of the upper house, from which shall be selected twenty-six peers;

and that on the first sitting day after the expiration of the said thirty days the clerk of the Parliaments or his deputy or assistant, or such other person as the said house shall direct, shall prepare and lay upon the table of the said house a list of the names or titles of the lords who shall within the said thirty days have delivered such lists;

and that on the next sitting day of the said house the said cover shall be opened by the clerk of the Parliaments or his deputy or assistant or such other person as the said house shall direct, by the order of the speaker of the said house, during the sitting of the said house, and all the lists which shall be so delivered shall be taken out of the said covers and put into a box, and the said lists shall be referred by the said house to a committee, who shall examine the same and within such time as the said house shall direct report to the house the name or title of every lord whose name or title shall appear in ten or more of such lists, and if the names or titles of the respective members so returned shall not amount to twenty-six members at the least, exclusively of such of the members so returned as shall be struck out of the said lists according to the directions of this Act, the members of the said house or any of them may on any of the next seven sitting days of the said house deliver in fresh lists in covers sealed up and indorsed in the manner herein-before directed, each of such lists containing a number of names or titles of members of the said house equal to that number by which the list returned by the committee shall, exclusively of the members struck out as aforesaid, fall short of twenty-six, and the said covers shall be opened and the lists disposed of, referred and proceeded upon after the end of the said seven days in the manner herein-before directed in respect to the said former lists.

2. And * * * * that the members of the House of Commons to be named by that house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following and not otherwise, any thing in the said recited Act contained to the contrary notwithstanding; (that is to say,) that within the first thirty sitting days of the said house in every future session of Parliament the members of the said house or any of them may respectively deliver in at the table lists inclosed in covers sealed up, and having the words "East India Judicature" and their respective names indorsed on the outside thereof in their respective proper hand writing, each of which lists shall contain the names of forty members of the said house; and that on the first sitting day after the expiration of the said thirty days

and like lists of forty names to be delivered in by the members of the House of Commons, from which shall be selected forty members.

(Secs. 3-4.)

the clerk of the said house or his deputy or assistant, or such other person as the house shall direct, shall prepare and lay upon the table the names of all the members who shall have delivered such lists ;

and that on the next sitting day of the said house the clerk of the said house, or any or either of such other persons as aforesaid, shall at the table during the sitting of the said house, by the order of the speaker, take the lists out of the said covers and put the said lists together into a box, and the said lists shall be immediately referred by the said house to a committee, who shall examine the same, and within such time as the house shall direct report to the house the name of every member whose name shall appear in twenty or more of the said lists, and if the names so returned shall not amount to forty at the least, exclusively of such of the said members therein named as shall be struck out of the said lists according to the directions of this Act, the members of the said house, or any of them may, on any of the next seven sitting days of the said house, deliver in at the table of the said house fresh lists in covers sealed up and indorsed in the manner hereinbefore directed, each list containing a number of names of members of the said house equal to that number by which the list returned by the said committee shall, exclusively of such of the said names as shall be so struck out, fall short of forty, and the said lists shall be opened, disposed of, referred and proceeded upon after the end of the said seven days in the manner hereinbefore directed in respect to the said former lists ;

and that the like order and course respectively as aforesaid shall be taken in each House of Parliament until the said numbers of twenty-six members of the House of Lords and forty members of the House of Commons shall have been returned to the said respective houses by the committees to whom the said lists shall be referred, exclusively of such of the members so returned as shall be struck out of the said lists according to the directions of this Act.

Persons holding offices under the crown during pleasure, &c., to be struck out of the lists.

3. Provided always * * * * that if any of the persons named in any of the lists returned by the said respective committees shall appear to hold any civil office of profit under the crown during his Majesty's pleasure, or to be or to have been a commissioner for the affairs of India, or to be or to have been a director of the said company, or to hold or to have held any office or employment in the service of the said company in India, the names of all and every such persons shall be struck out of the said lists by the order of the said respective Houses of Parliament.

Mode of delivering in lists

4. Provided also * * * * that if the delivery of the said lists at the tables of the respective Houses of Parliament in the manner directed by this

(Sec. 5.)

Act shall occasion any interruption of other business, or be found inconvenient in any other respect, it shall be lawful for both or either of the said houses, by their order or orders, to substitute such other mode for the delivery of such lists as the said houses shall respectively think fit, and that the said lists shall, after the making of any such order or orders, be delivered according to the tenor and directions thereof respectively, any thing herein-before contained to the contrary notwithstanding.

5. And * * * * the names of the twenty-six peers and forty members of the House of Commons which shall have been so chosen by the said respective Houses of Parliament, or the names of the twenty-six peers and forty members of the Houses of Commons which (in case the said lists of both or either of the said houses shall happen to contain a greater number of members than as aforesaid respectively) shall have been drawn by lot according to the directions of the said former Act, or of such of them as shall personally appear at the time and place appointed in the manner by the said Act directed, shall be put into a box to be drawn by lot in the presence of the judges to be appointed according to the directions of the said recited Act and of the parties to the information to be tried or their counsel or agents ;

and the person or persons against whom the said information shall have been exhibited shall have the liberty, as the said names are drawn out, to make peremptory challenges, to the number of thirteen of the peers and twenty of the members of the House of Commons whose names shall have been put into the said box ;

and his Majesty's attorney general or other prosecutor, as the case may happen, and also the party or parties against whom such information shall have been exhibited as aforesaid, shall respectively have power to make challenges to any of the names which shall be so drawn out, and to assign for cause of challenge any such matter as in the opinion of the three judges or the majority of them shall appear in their discretion sufficient to set aside the person or persons so challenged, for the purpose of obtaining equal justice ;

and the first five names of the said peers, and likewise the first seven names of the said members of the House of Commons, which being drawn out shall not be so challenged, or against whom no challenge shall have been allowed, shall be returned by the said judges to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall cause the said five peers and the said seven members of the House of Commons, by their respective proper names or titles of honour together with the names of the said three judges, to be inserted in the special

to be altered by either House, if that proposed be found inconvenient.

The party accused may peremptorily challenge thirteen peers and twenty commoners contained in the lists, as the names are drawn by lot in the presence of the judges, according to the recited Act.

Prosecutor and accused may challenge any of the names, assigning reasons.

The first five peers and the first seven commoners whose names shall be drawn out and not challenged, to be, with the three judges, appointed special commissioners.

(Secs. 6-7.)

commission to be issued by virtue of the said recited Act and of this present Act;

and the persons who shall be so named and authorized in and by the said commission shall appear within ten days at the time and place to be appointed by the said three judges, and shall then and there take the following oath before the lord high chancellor or lord keeper or lords commissioners of the great seal of Great Britain for the time being, or any one of them :

Commissioners' oath.

I, A. B., do swear, that as a commissioner appointed by his Majesty's commission for the trial of the information now at issue against C. D., I will diligently attend such trial and that I will hear and determine the same to the best of my judgement, according to the evidence which shall be given.

So help me GOD.

If number be reduced by challenges to less than five peers and seven commoners, new lists to be made out.

6. And * * * * if by reason of the challenges as aforesaid the number of names so drawn out as aforesaid shall be reduced to less than five peers and seven members of the House of Commons respectively, then and in such case the said three judges shall forthwith certify the same to the speakers of the respective Houses of Parliament, who shall lay the same before the said houses respectively, and the said houses shall respectively proceed, within any of the next seven days on which the said houses shall respectively sit for the dispatch of business, to choose, nominate and appoint twenty-six members of the House of Lords and forty members of the House of Commons after the manner and course aforesaid, the lists of which said respective members so chosen and appointed shall be transmitted to the clerk of the crown in his Majesty's High Court of Chancery or his deputy, and be inserted in a new commission to be issued in the manner herein-before and in the said former Act directed :

Certain days not to be accounted sitting days of House of Commons.

Provided always, that no day on which the House of Commons shall have adjourned for want of the presence of a sufficient number of members to execute the provisions of the several Acts passed in the tenth and eleventh years of the reign of his present Majesty, to regulate the trials of controverted elections or returns of members to serve in Parliament, shall be accounted one of the sitting days of the said house for any of the purposes of this Act.

Power of the commissioners.

7. And * * * * the said special commissioners to be appointed as aforesaid shall have full power and authority to hear and determine every such information, and to pronounce judgement thereon according to the effect of the judgement of the common law upon convictions had and obtained according to the course of the common law for extortion or other misdemeanor, and also to declare the party so convicted incapable of serving the King's Majesty, his heirs or successors, or the said united company, in any capacity whatever;

(Secs. 8-10.)

and such judgement so pronounced by the said special commissioners as aforesaid, upon such information, shall be good and effectual, and shall be conclusive to all intents and purposes :

and no certiorari shall be granted for removing the proceedings of the said special commissioners on such information into any court whatever; Proceedings not removable by certiorari, etc.

and the proceedings of the said special commissioners shall not be impeached or the validity thereof questioned in any action or suit or other proceeding in any court of law or equity.

8. Provided always * * * * that all and every the powers and authorities given and granted by the said recited Act and by this present Act unto the said special commissioners shall and may be executed by or before any ten or more of them (of whom one of the said three judges shall always be one); Ten commissioners competent to act.

and that no act done or executed by or before the said commissioners, unless ten or more of the said commissioners (of whom one of the said three judges shall be one) shall be present at the doing or executing thereof (save and except in the particular cases herein-after specially provided), shall be valid or effectual, any thing in the said former Act contained to the contrary notwithstanding.

9. Provided also * * * * that whenever the said special commissioners shall not concur in opinion upon any question or matter to be decided by or before them, every such question or matter shall be determined by the greater number of the said commissioners who shall be then present, so that the number of commissioners then present be not less than ten as aforesaid; Majority to determine, and the president to have a casting vote.

and if the said commissioners shall at any time be equally divided in opinion on any question or matter depending before them, the judge then sitting as president shall have two voices, or the casting vote.

10. And * * * * if any of the said special commissioners shall depart this life, or be excused from attending in the manner by this Act directed, before the said commission shall have been fully executed, so that there shall not be a sufficient number of commissioners to proceed in the due execution of such commission, according to the true intent and meaning of this Act, or if all the said three judges shall happen to die or be excused from attending in the manner by this Act directed whilst the said commission shall be depending, then and in either of such cases and from thenceforth the said commission and the force and effect thereof shall cease, and a new commission shall be awarded for hearing the matter of such information for which such former commission was issued, and the trial of such information shall begin de novo, save only and except with respect to the examinations or If by death or otherwise the number should be reduced under ten, &c., a new commission to be made out.

(Sec. 11.)

depositions of any witnesses (if any) which shall have been taken in writing under the said former commission, which examinations or depositions shall and may be received and admitted as evidence under such new commission.

Commissioners to attend during the whole trial, unless absent by leave.

11. And * * * * the said special commissioners shall severally attend in court during the whole trial for which they shall be appointed as aforesaid, and none of the said commissioners shall in anywise absent himself from the same (except as hereinafter is provided), and the said court shall at no time proceed in the said trial until all the said special commissioners not having obtained such leave of absence or not having been excused as hereinafter is provided shall be met and assembled;

If all do not meet, the majority present may adjourn.

and if the said special commissioners (except as aforesaid) shall not all meet and assemble within the space of one hour after the time to which they shall have adjourned, such of them as shall be then present, or the major part of them, shall make an order for a further adjournment of the trial, in which order the cause of such further adjournment shall be expressed, and a copy of such order, signed by the registrar to the said commissioners, shall be served upon or left at the usual or last place or places of abode of the said absent commissioner or commissioners respectively, and at such further adjourned meeting the cause of his or their absence shall be inquired into by the special commissioners who shall be then present before the said commissioners shall proceed to any other business;

Cause of absence to be enquired into.

Absentees may be censured or fined, and disabled from acting.

and if it shall not be made to appear to the satisfaction of the said commissioners, by facts specially stated and verified before them upon oath (or in the case of such facts being verified by a peer of the realm, then upon his honour), that such absent commissioner or commissioners was or were by sudden accident or by necessity prevented from attending at the said former sitting, it shall and may be lawful for the special commissioners then present, or the major part of them, to pass such censure upon such commissioner or commissioners who shall have been so absent as they shall think fit, and also to impose upon such commissioner or commissioners respectively for such neglect of duty, or upon any commissioner or commissioners who shall depart from the said court during the sitting and before an adjournment thereof, such fine or fines as the said commissioners or the greater number of them then present shall think fit, so that no such fine shall exceed the sum of five hundred pounds, which fine or fines shall be forthwith estreated by one or more of the said three judges into the Court of Exchequer, and the like process shall be awarded by the said Court of Exchequer for levying the said fine or fines for his Majesty's use as is usually awarded for the levying of other fines estreated into the said Court of Exchequer;

How fines are to be levied.

(Secs. 12-14.)

and the said special commissioners shall also have full power and authority to order or declare that any commissioner or commissioners who shall be so censured or on whom any such fine or fines shall be imposed shall be disabled from acting in the further execution of such commission.

12. Provided always * * * * that it shall and may be lawful for the said commissioners or the greater number of them to grant leave of absence to any of the said commissioners upon proof to their satisfaction of sickness or other urgent occasion;

Leave of absence may be granted to commissioners, who, however, are disqualified.

and such of the said commissioners who shall obtain leave of absence as aforesaid, and shall accordingly be absent during any part of such trial, shall be no longer capable of acting under such commission, any thing contained in the said former Act or in this Act to the contrary notwithstanding.

13. Provided also * * * * that after the trial of any information shall have commenced and been begun by and before the said special commissioners, the said commissioners shall sit every day, Sunday, Christmas-day and Good Friday only excepted, and the said commissioners shall never adjourn for a longer time than twenty-four hours, unless a Sunday, Christmas-day or Good Friday shall happen to intervene, in which case their adjournment shall not exceed twenty-four hours, exclusive of such Sunday, Christmas-day or Good Friday:

During a trial the commissioners not to adjourn for more than twenty-four hours, except on occasions herein specified.

Provided also that if the number of the said special commissioners capable of acting in the execution of such commission, according to the directions of this Act, shall by death or otherwise be reduced to ten, and any of such ten commissioners shall be prevented by sudden accident or by necessity from attending such trial, the said other commissioners or the greater number of them shall and may at their discretion adjourn and suspend the proceedings upon such trial from time to time as circumstances may require, so that any such adjournment shall not exceed three days, and the number of such successive adjournments, shall not in the whole exceed ten adjournments, any thing herein-before contained to the contrary notwithstanding.

14. And * * * * it shall and may be lawful to and for the said special commissioners to constitute and appoint such clerks, tipstiffs, messengers and other officers to attend upon them in the execution of their said commission, and to do and perform all such matters and things as shall be ordered or given to them in charge by the said commissioners, as the said commissioners shall think fit;

Commissioners may appoint clerks, point clerks, etc., who may be removed, etc.

and such several clerks and other officers shall be diligently attendant upon and subject and obedient to the said commissioners, and may be

(Sec. 15.)

suspended, removed or discharged, or be punished by fine or fines to be imposed by the said commissioners for any neglect of duty or disobedience, at the discretion of the said commissioners, which fines shall be estreated into his Majesty's Court of Exchequer by one or more of the said three judges, and shall and may be levied and recovered for his Majesty's use by the process of the said court ;

How clerks,
etc., are to be
paid.

and all and every of such clerks and other officers shall be paid by the parties informant or informants and defendant or defendants named in such information the same or the like fees and allowances as the respective officers attendant upon his Majesty's Court of King's Bench upon trials of informations for misdemeanors prosecuted in the said court are entitled to receive from the parties thereto respectively, according to the stations and duties of such officers respectively.

Court of
King's Bench
may issue
out warrants
for apprehend-
ing persons
accused of
extortion, etc.,
in the East
Indies.

15. And * * * * whenever an information shall be exhibited in the said Court of King's Bench against any person or persons for the crime of extortion or other misdemeanor committed in the East Indies, in every such case, upon a certificate from the coroner and attorney of our lord the King (commonly called the clerk of the crown in the Court of King's Bench or the master of the crown office in the said court), or any or either of his sworn clerks in the said office, that such information hath been filed (which information, in case the same shall be filed when the Court of King's Bench shall not be sitting, shall be considered as filed on the last day of the preceding term), it shall and may be lawful to and for the lord chief justice or any of the other judges of the said court, at the instance of such prosecutor or prosecutors, to issue his warrant under his hand and seal directed to all sheriffs, mayors, bailiffs, constables and other peace officers, and to such other person or persons as shall be named for that purpose by such prosecutor or prosecutors, for apprehending and attaching the party or parties defendant or defendants to such information ;

If person
accused,
escape, etc.,
into Scotland
warrant to
be endorsed
by sheriff,
etc., there.

and if such party or parties shall escape or go into, reside or be in any place within that part of Great Britain called Scotland, it shall and may be lawful for the sheriff or steward depute or substitute or any justice of the peace of the county or place into which such party or parties shall escape or go or in which he or they shall reside or be to indorse his name on the said warrant, which warrant so indorsed shall be a sufficient authority to all persons to whom such warrant was originally directed, and also to all sheriffs officers, stewards officers, constables and other peace officers of the said county or place by the sheriff, steward depute or substitute, or justice of the peace whereof such warrant shall be so indorsed, to execute the said warrant in the same county

(Secs. 16-17.)

or place by apprehending the party or parties against whom such warrant shall have been granted, and to convey and bring such party or parties in safe custody before the said Court of King's Bench or before the lord chief justice or any of the judges of the said court, to be further dealt with according to the directions of the said former Act and this present Act.

16. And * * * * it shall and may be lawful to and for the party or parties against whom any such information shall be exhibited as aforesaid (not being attached) to surrender himself or themselves in the said Court of King's Bench at any time during the sitting of the said court, to be dealt with according to the directions of the said former Act and this present Act, or if the said court shall not be sitting, unto the said lord chief justice or any other of the judges of the said court;

Parties informed against to be committed or to find bail.

and that when and so often as any such party or parties shall surrender himself or themselves out of court as aforesaid, or shall during any vacation or when the said court shall not be sitting be attached and brought before the said lord chief justice or other judge under any warrant or attachment issued by virtue of the said former Act or this present Act, the said lord chief justice or other judge shall and may order such party or parties to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said lord chief justice or other judge, there to be detained until he or they shall be delivered by due course of law, or until he or they, together with two sufficient sureties, shall have entered into a recognizance unto the King's Majesty, his heirs and successors, in such sum of money and with such condition for his appearance and for submitting to the judgement to be pronounced in and upon such information, as the said lord chief justice or other judge shall in his discretion order and direct:

Provided always that it shall and may be lawful for the said commissioners to order any person in custody under the provisions of this Act to be from time to time brought up and remanded in such manner as to the said commissioners shall seem meet.

17. And * * * * when and so often as any party or parties against whom any such information as aforesaid shall be exhibited shall not be attached or shall not have surrendered as aforesaid, and proof shall be made by any affidavit or affidavits to the satisfaction of the said Court of King's Bench that such party or parties is or are beyond the seas, or that upon enquiry at his or their usual place or places of abode or last known place or places of residence in Great Britain he or they could not be found, and that there is just ground to believe that such party or parties is or are gone, or doth or do continue out of the realm, or doth or do otherwise abscond, to avoid being attached to

Mode of proceeding when parties abscond, etc.

(Secs. 18-19.)

answer the matters charged in and by such information, then and in such case the said court shall and may make a rule or order directing and appointing such party or parties to surrender himself or themselves in the said court or to the lord chief justice or one of the other judges of the said court, at a certain day in and by such rule or order to be limited and expressed at the discretion of the said court;

and a copy of such rule or order shall within twenty days after the making thereof be inserted three several times in the London Gazette, and another copy of such rule or order shall within the time aforesaid be affixed in some conspicuous and publick place in the India House;

and if the said party or parties shall not surrender himself or themselves respectively according to the tenor of such rule or order within the time therein to be limited for that purpose, or within such further time as the said court shall appoint or direct (which the said court is hereby impowered to do, on application being made on the behalf of such party or parties, if the said court shall see cause), then, on proof being made of the publication of such rule or order in manner aforesaid, it shall and may be lawful for his Majesty's attorney general or other prosecutor, by rule and leave of the said court (which rule and leave the said court is hereby impowered to grant), to cause an appearance and the plea of not guilty to be entered for such party or parties charged by the said information, and the said information shall thereupon proceed as if the party or parties had appeared and pleaded not guilty thereto.

Appearance to be entered for party not appearing, etc.

Notice of trial to be given where accused does not appear.

18. Provided always * * * * that in all cases where the plea of not guilty shall be entered for the party or parties defendant or defendants to any information by the prosecutor or prosecutors thereof, by virtue and according to the directions of this Act, it shall be sufficient, in order to the hearing and determining of such information, for such prosecutor or prosecutors to give fourteen days notice of the day appointed for the trial thereof by advertisement in the London Gazette, any law, usage or practice to the contrary notwithstanding.

Judgement to be pronounced by the commissioners, though the parties accused do not appear.

19. And * * * * if any party or parties charged by any such information as aforesaid shall make default in his or their personal appearance at the pronouncing of judgement in the matter of such information by and before the said special commissioners, it nevertheless shall and may be lawful for the said commissioners to pronounce judgement upon such information in the same manner as if the said party or parties was or were personally present, and every such judgement shall be as valid, effectual and conclusive to all intents and purposes whatever as if the said party or parties had been

(Secs. 20-22.)

personally present at the pronouncing thereof, any law or usage to the contrary notwithstanding.

20. And * * * * whenever the party or parties charged by any such information shall personally appear before the said special commissioners on the hearing or trial thereof, it shall and may be lawful to and for the said special commissioners at any time during the course of such trial to order such party or parties to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said special commissioners, there to be detained until judgement shall be pronounced in the matter of the said information, unless he or they shall be previously delivered or discharged by the rule or order of the said commissioners.

Parties
accused
may be com-
mitted during
trial.

21. And * * * * if any person or persons shall be guilty of any contempt or disturbance in the court of the said commissioners during the sitting of the court, it shall and may be lawful to and for the said commissioners to order such person or persons to be taken into custody by any officer or officers to be appointed by the said commissioners to attend the said court, and to stand committed to the prison of the Marshalsea or the gaol of Newgate, at their discretion, to be there kept for such time as the said commissioners shall order and direct.

Disturbance of
the court may
also be com-
mitted.

22. And * * * * the judgements which shall be made and pronounced by the said special commissioners according to the directions and under the authority of the said recited Act and this present Act shall, when and so soon as the said judgements and other proceedings shall have been delivered over by the register to the said commissioners to the clerk of the crown in the said Court of King's Bench (otherwise called the coroner and attorney of our lord the King or the master of the crown office in the said court) in the manner directed by the said former Act, be executed and enforced by the authority of the said Court of King's Bench, and such proceedings to outlawry and other proceedings against the several and respective defendants thereto shall and may be had thereon in the like manner as according to the course and practice of the said court may be had upon judgement made and pronounced by the said court;

Judgements of
the commis-
sioners to be
executed by
the Court of
King's Bench;

and the judgements of the said special commissioners shall be final and conclusive to all intents and purposes whatever, and shall not be arrested, defeated, reversed or avoided, or liable to be arrested, defeated, reversed or avoided, for or by reason or means of any error, defect or want of form in any such judgement or in the information whereon the same shall be given or pronounced, or in the award of any process thereon, or in the record of the issue

and to be
final.

(Secs. 23-25.)

for the trial thereof, any law, statute or usage to the contrary notwithstanding.

This or the
recited Act
not to deprive
persons of
any right
they are
entitled to by
law, etc.;

23. Provided always * * * * that nothing in the said recited Act or in this present Act contained shall extend or be construed to extend to deprive the prosecutor or prosecutors of any such information as aforesaid, or the party or parties defendant or defendants thereto, of any right, liberty, benefit or advantage to which, by the law of the land or the rules of practice of the Court of King's Bench, such prosecutor or prosecutors, defendant or defendants, is or are, or would, could or might have been entitled upon any other information of a like nature depending in the said Court of King's Bench before issue in fact joined therein;

nor to restrict
powers of
Court of
King's
Bench.

nor to prevent or restrict the said Court of King's Bench from exercising any such power or authority as would, could or might have been legally exercised by the said Court of King's Bench in the matter of any such information before issue in fact joined therein, if the said former Act or this present Act had not been made, any thing in the said former Act or this present Act contained to the contrary notwithstanding.

Mode of
proceeding
where
demurrers are
entered and
over-ruled.

24. Provided also * * * * that if the party or parties charged by any such information as aforesaid shall enter a demurrer to such information and such demurrer shall be over-ruled by the said Court of King's Bench such party or parties shall within eight days next after the said court shall have given judgement on such demurrer, unless a writ of error shall be brought thereon, and then within eight days next after such judgement shall be affirmed or such writ of error shall be nonpros'd, enter the plea of not guilty to such information, or in default thereof the said plea of not guilty shall and may be entered for and in the name or names of such party or parties by his Majesty's attorney general or other prosecutor, and the said information shall proceed in the like manner as if no demurrer had been entered thereto, any law or the usage or practice of the said court to the contrary notwithstanding.

Informations
may at option
of prosecutor
be tried in
the Court of
King's Bench.

25. Provided also * * * * that if his Majesty's attorney general or other prosecutor or prosecutors of any such information shall be desirous of having the same proceeded in, tried and determined in the said Court of King's Bench and shall move the said court for that purpose, then and in every such case the said court shall grant a rule or order for retaining such information in the said court, and the said information shall be accordingly retained by the said Court of King's Bench, and shall be heard, tried, adjudged and determined by the said Court of King's Bench in such and the same manner to all intents and purposes as an information of the like nature would, could

(Sec. 26.)

or might have been proceeded in, heard, tried and determined in and by the said court in case the said former Act or this present Act had not been made, any thing in the said former Act or this present Act contained to the contrary notwithstanding.

26. And * * * * whenever the party or parties against whom any such information shall have been exhibited as aforesaid shall be adjudged to pay a fine or fines to his Majesty, his heirs or successors, and also whenever any recognizance or recognizances entered into under the said former Act or this present Act shall become forfeited, the said Court of King's Bench, or in case the said court shall not be then sitting, the lord chief justice of the same court, shall and may forthwith, at the instance of his Majesty's attorney general or other prosecutor, deliver to the lord chief baron or any other of the barons of the Court of Exchequer an estreat of the fine or fines recognizance or recognizances so adjudged or become forfeited respectively as aforesaid; How fines, etc., are to be recovered in England;

and the said lord chief baron or other of the said barons shall thereupon, at the requisition of the said attorney general or other prosecutor, authorise and direct the proper officer of the same court to award, and such officer shall accordingly forthwith award, under the seal of the same court, one or more special writ or writs of extendi facias and capias or other special process against the said party or parties adjudged to pay such fine or fines, or the principal or principals and sureties in such recognizance or recognizances respectively, and their lands, tenements and hereditaments, goods, chattels and effects, directed into such county or counties, cities, places or liberties, to the proper sheriffs or other officers of the same respectively, for the due execution thereof, as the said attorney general or other prosecutor shall desire or require in that behalf;

and if such party or parties or such principal or principals and sureties or any of them shall have or be seised or possessed of or entitled to any lands, tenements or hereditaments, goods, chattels, estate or effects situate, lying or being within that part of Great Britain called Scotland, or shall be resident in that part of the said United Kingdom, then and in either of such cases his Majesty's Court of Exchequer in Scotland, or when the said court shall not be sitting, the lord chief baron or any other of the barons of the said Court of Exchequer in Scotland, upon a copy or transcript of the estreat of such fine or fines, recognizance or recognizances, being sent or transmitted into the same court or delivered to the said lord chief baron or any other of the barons of the same court, from and under the seal of the Court of Exchequer in England or under the hand and seal of the lord chief baron in Scotland.

(Sec. 27.)

or any other of the barons thereof, (and which copy or transcript the said Court of Exchequer in England, or when the said court shall not be sitting, the lord chief baron or any other of the barons of the same court, is and are hereby required, at the instance of his Majesty's attorney general or other prosecutor, to send and transmit accordingly,) shall and may forthwith, at the instance of the said attorney general or other prosecutor, carry on such proceedings and award such and the like process and processes as is and are competent by the law of that part of Great Britain called Scotland for recovery of debts due to the crown.

Mode of recovering fines from property in the East Indies, when the effects in Britain are insufficient.

27. And * * * * if it shall at any time be made to appear to the satisfaction of the said Court of Exchequer in England, at the instance of his Majesty's attorney general or other prosecutor, by motion in the said court on his or their behalf, that such party or parties, principal or principals or sureties as aforesaid or any of them have no lands, tenements or other estate or effects in Great Britain, or that the same (if any) are not sufficient to answer the sum or sums forfeited by such recognizance or recognizances or due for such fine or fines respectively, and that such party or parties, principal or principals or sureties or any of them shall have or be seised or possessed of or entitled to any lands, tenements or hereditaments, goods, chattels, debts, estate or effects within any of the British possessions in the East Indies respectively (the said sum or sums, fine or fines, not being paid and satisfied), then and in every such case the said Court of Exchequer shall and may by rule or order of the said court cause one or more transcript or transcripts of the estreats of the said recognizance or recognizances, fine or fines, to be sealed with the seal of the court or to be otherwise attested as the said court shall direct, and the same so sealed or attested shall be closed up under the seals of any two of the barons of the said court, directed to the Supreme Court of Judicature in Bengal and to the mayor's courts at Madras and Bombay, or to any or either of the said courts, as the case shall or may require; and the same shall be delivered by the said barons or one of them to such agent or agents as the prosecutor or prosecutors shall nominate or appoint for that purpose, which agent or agents (or in the case of his or their death the person into whose hands the same shall come) shall deliver such transcript or transcripts to one of the judges of the said Supreme Court or mayor's courts respectively, as the case may be or require, and make oath that he or they did receive the same from the hands of one of the said barons (or in what other manner the same came into his or their hands), and that the same hath not or have not been opened or altered since he or they so respectively received the same (which oath any of the said judges of any of the said courts in India are hereby authorised

(Sec. 28.)

and required to administer), and thereupon such transcript or transcripts shall be filed and recorded in such of the said courts in India to which the same shall be so directed, as the case may require ;

and upon motion to be made in such courts or court for that purpose, for and on the behalf of such prosecutor or prosecutors, the like process and proceedings shall and may from time to time be awarded and had by and in the said Supreme Court of Judicature and the said mayor's courts at Madras and Bombay respectively, or any or either of them, against the lands, tenements or hereditaments, goods, chattels, debts, estate and effects of the said party or parties, principal or principals and sureties within the limits of the jurisdictions of such respective courts in the East Indies as might or could have been awarded or had in the said Court of Exchequer in England against the lands, tenements, hereditaments, goods, chattels, debts, estates and effects of the same party or parties, principal or principals or sureties in England, and the same shall be valid and effectual, any law, usage or custom to the contrary notwithstanding.

28. And whereas it is by the said recited Act enacted, that in all cases of informations laid or exhibited by virtue of the said Act in the Court of King's Bench for misdemeanors or offences committed in India, it shall be lawful for the said court to award a writ or writs of mandamus to the chief justice and judges of the Supreme Court of Fort William, or the judges of the mayor's court of any of the British settlements in India, as the case may require, who are thereby respectively authorized and required accordingly, to hold a court for the examination of witnesses and receiving other proofs concerning the matters charged in such informations respectively, and that such examination shall be then and there openly taken and reduced into writing in manner therein mentioned and sent to his Majesty in his Court of King's Bench, closed up and under the seals of two or more of the judges of the said Supreme Court, and that one or more of the judges of the said Supreme Court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench in the publick office, and make oath that he received the same from the hands of one or more of the Judges of such court in India (or in what manner the same came into his hands), and that the same hath not been opened or altered since he so received the same :

Recital of Act
24 Geo. 3.
sess. 2, c. 25,
s. 78.

And whereas a doubt may arise whether such examinations as may be taken by the judges of the mayor's court in any of the British settlements in India by force and virtue of the said Act may be lawfully sent closed up

(Secs. 29-38.)

under the seals of the same judges, and whether any one or more of the same judges is or are empowered to deliver the same to the agent or agents of the party requiring the same :

Examinations taken in the mayors' courts in India to be sealed up and given to the agents of the parties, to be delivered to the clerks of the King's Bench.

Be it therefore enacted, that every examination which shall or may be had or taken by the judges of the mayor's court of any of the British settlements in India by force and virtue of the said Act (being reduced into writing as in the said Act is directed or mentioned) shall be sent to his Majesty in his Court of King's Bench closed up and under the seals of two or more of the judges of the mayor's court of any of the British settlements in India, and one or more of the judges of the same court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks of his Majesty's Court of King's Bench, in the publick office, and make such or the like oath as is in and by the said Act directed and prescribed, any thing in the said Act contained to the contrary notwithstanding.

29 and 30. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.)*; 29 rep. also as to B. I. by XI of 1872, s. 2 and sch. I.]

31. [*Rep. 35 & 36 Vict., c. 63 (S. L. R.)*.]

32 to 35. [*Rep. 33. Geo. 3, c. 52, s. 146.*]

36 and 37. [*Rep. 35 & 36 Vict., c. 63 (S. L. R.)*.]

Bonds executed in the East Indies shall be evidence in Britain, and contrariwise, on proof of the hand-writing of the parties,

38.¹ And whereas great difficulties, expence and delay often arise in giving proof in Great Britain of the execution of bonds and other deeds and writings executed and witnessed by persons resident in the East Indies

* * * * *
For remedy thereof, be it enacted, that whenever any bond or other deed, or writing executed in the East Indies, and attested by any person or persons resident there, shall be offered in evidence in any of the courts of justice in Great Britain, it shall be sufficient to prove by one or more credible witness or witnesses that the name or names subscribed to such bond, deed or writing purporting to be of the hand or hands writing of the obligor or obligors to such bond, or of the party or parties to such deed or writing, is or are of the proper hand writing or hands writing of such obligor or obligors, party or parties respectively, and that the name or names set and subscribed of the witness or witnesses attesting the execution of the same respectively is or are of the proper hand or hands writing of the witness or witnesses so attesting the same, and that such witness or witnesses is or are resident in the East Indies ; * * * *

¹ S. 38, so far as it relates to Courts of Justice in the East Indies, has been repealed by Act I of 1872, s. 2 and sch. See Chitty's *Statutes*, Tit. Evidence ; *Taylor on Evidence*, Ed. 9, § 1851.

² Words repealed as to British India, by 55 & 56 Vict., c. 19 (S. L. R.), have been omitted.

and such proofs shall be deemed and taken to be as valid and sufficient evidence of the due execution of such bonds and other deeds and writings as if the witness or witnesses thereto was or were dead.

39.¹ * * * * this Act shall be deemed and taken to be a public Public Act.
Act * * * * *

THE EAST INDIA COMPANY ACT, 1793.²

(33 Geo. 3. c. 52.)

An Act for continuing in the East India Company for a further term the possession of the British Territories in India, together with their exclusive Trade, under certain Limitations; for establishing further Regulations for the Government of the said Territories and the better Administration of Justice within the same; for appropriating to certain Uses the Revenues and Profits of the said Company; and for making Provision for the good Order and Government of the Towns of Calcutta, Madras and Bombay.

[11th June 1793.]

[Preamble.]

1 to 18. [Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.) Omitted as being spent and inapplicable to India.]

19. Provided also, and be it further enacted, that if the said board of commissioners shall be of opinion that the subject matter of any of their deliberations concerning the levying war or making peace, or treating or negotiating with any of the native princes or states in India, intended to be communicated in orders to any of the Governments or Presidencies in India, shall be of a nature to require secrecy, it shall and may be lawful for the said board to send their orders and instructions to the secret committee of the said court of directors, to be appointed as is by this Act directed, who shall hereupon, without disclosing the same, transmit their orders and dispatches, according to the tenor of the said orders and instructions of the said board, to the respective Governments and presidencies in India, and that the said Governments and Presidencies shall be bound to pay a faithful obedience

Board may send orders to the secret committee of directors, who shall transmit the same to India.

¹ This Section was repealed *in toto* as to the U. K. by 55 & 56 Vict., c. 19 (S. L. R.). The part reproduced here has been retained for the reason given in the foot note to s. 6 of the East India Company Act, 177, *ante*, p. 7.

² So much of this Act as requires seniority as a condition or qualification for the appointment of civil servants to offices, places or employments, repealed, 24 & 25 Vict., c. 54, s. 7. Its provisions have been modified by Act XI of 1876, s. 66. For digest and notes, see Ilbert's *Government of India*, pp. 285-291.

(Secs. 20-24.)

thereto in like manner as if such orders and instructions had been sent to them by the said court of directors.¹

Directors to appoint a secret committee, who shall take the following oath.

20. And * * * * that the said court of directors shall from time to time appoint a secret committee, to consist of any number not exceeding three of the said directors, for the particular purposes in this Act specified, which said directors so appointed shall, before they or any of them shall act in the execution of the powers and trusts hereby reposed in them, take an oath of the tenor following; (that is to say,)

* * * *

Which said oath shall and may be administered by the several and respective members of the said secret committee to each other, and being so by them taken and subscribed, the same shall be recorded by the secretary of the said court of directors for the time being amongst the acts of the said court.

21. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.). Omitted as being inapplicable to India.*]

Presidencies in India may send dispatches to the secret committee, who shall deliver them to the board.

22. Provided also * * * * that when any of the Governments or Presidencies in India shall be of opinion that any of their dispatches to Great Britain concerning the government of the said territories and acquisitions, or the levying war or making peace, or negotiations or treaties with any of the native princes or states of India, shall be of a nature to require the same to be kept secret, it shall be lawful for the said Governments or Presidencies respectively to address their dispatches requiring such secrecy under cover, sealed with their seals, unto the said secret committee of directors of the said company for the inspection of such committee, and that immediately upon the arrival of such dispatches so addressed the said secret committee of directors shall deliver the same or copies thereof to the said board.

23. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.). Omitted as being inapplicable to India.*]

Governments of the presidencies vested in the government and three counsellors respectively.

24. And be it further enacted, that the whole civil and military government of the presidency of Fort William in Bengal, and also the ordering, management and government of all the territorial acquisitions and revenues in the kingdoms or provinces of Bengal, Behar and Orissa, shall be and are hereby vested in a governor general and three counsellors of and for the said presidency, subject to such rules, regulations and restrictions as are made, provided or established in that behalf in this Act or in any other Act or Acts now in force, and not by this Act repealed or altered;

¹ But see 20 & 22 Vict., c. 106, s. 27.

² Another oath substituted, 53 Geo. 3, c. 155, s. 74.

(Secs. 25-27.)

and that the whole civil * *¹ government of the presidency of Fort Saint George on the coast of Coromandel, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast, and also so much and such parts of the territories and possessions on the coast of Orissa, with the revenues of the same, as have been and now are under the administration of the government or presidency of Fort Saint George, shall be and are hereby vested in a governor and three counsellors of and for the said presidency of Fort Saint George, subject to such rules, regulations and restrictions as aforesaid;

and that the whole civil * *² government of the presidency and island of Bombay on the coast of Malabar, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast of Malabar, shall be and are hereby vested in a governor and three counsellors of and for the said presidency and island of Bombay, subject as aforesaid;

and the said governors and councils of the said presidencies of Fort Saint George and Bombay respectively, being also subject to the superintendence and control of the said governor general in Council, in manner by this Act provided or directed in that behalf, any Act or Acts to the contrary notwithstanding.

25. And * * * *³ that all vacancies happening in the office of governor general of Fort William in Bengal, or of any of the members of the council there, or of governor of either of the company's presidencies or settlements of Fort Saint George or Bombay, or of any of the members of the council of the same respectively, or of governor of the forts and garrisons at Fort William, Fort Saint George or Bombay, or of Commander-in-Chief of all the forces in India. * * *⁴ all and every of such vacancies shall be filled up and supplied by the court of directors of the said united company, the vacancies of any of the said members of council being always supplied from amongst the list of senior merchants of the said company, who shall have respectively resided twelve years in India in their service, and not otherwise except as is herein-after otherwise provided.

Vacancies of
governors,
etc., to be
filled up by
the directors.

26. [*Rep. as to U. K. 50 § 51 Vict., c. 59 (S. L. R.). Omitted as being inapplicable to India and superseded by 21 § 22 Vict., c. 106, s. 29, etc.*]

27. And * * * *⁵ that it shall be lawful for the said court of directors to appoint any person or persons provisionally to succeed to any of

Directors may
appoint persons provisionally to supply vacancies.

¹ The words "and military", repealed by 56 & 57 Vict., c. 62, have been omitted.

² The words "or military," repealed by 56 & 57 Vict., c. 62, have been omitted.

³ The words "or of any provincial commander-in-chief of the forces there," repealed by 56 & 57 Vict., c. 62, have been omitted.

(Secs. 29-30.)

the offices aforesaid for supplying any vacancy or vacancies therein, when the same shall happen by the death or resignation of the person or persons holding the same office or offices respectively, or on his or their departure from India, or on any event or contingency expressed in any such provisional appointment or appointments to the same respectively, and such appointments again to revoke, but that no person so appointed to succeed provisionally to any of the said offices shall be entitled to any authority, salary or emolument appertaining thereto, until he shall be in the actual possession of such office, any Act or statute to the contrary notwithstanding.

28. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.); rep. also as to B. I. by XII of 1873, s. 1 and sch.*]

How vacancies are to be supplied when no successors are on the spot, etc.

29. And * * * * that if any vacancy shall happen in the office of governor general of Fort William or of governor of Fort Saint George or Bombay respectively, when no provisional or other successor shall be upon the spot to supply such vacancy, then and in every such case the counsellor of the presidency wherein such vacancy, shall happen, next in rank to the said governor general or governor respectively, shall hold and execute the said office of governor general or governor until a successor shall arrive, or until some other person on the spot shall be duly appointed thereto;

and if the council board shall happen during that interval to become reduced to one only member besides the acting governor general or governor, then and in such case the person so acting as governor general or governor shall be and is hereby impowered to call to the council board such one of the senior merchants of the said company at such presidency where the vacancy shall occur as he shall think fit to be a temporary member of the said board, and that the person so called shall accordingly sit and act as a member of the said council and shall have the same powers in all other respects as are given to persons appointed to the council board by the said court of directors, until the arrival of a successor or other appointment made to the office of governor general or governor respectively;

and that every such acting governor general, governor and occasional counsellor shall during the time of their continuing to act as such respectively be entitled to receive the several emoluments and advantages appertaining to the said offices by them respectively supplied, such acting governor general and governor foregoing their salary and allowances of counsellor for the same period.

Next member of council to commander-in-chief to

30. Provided always * * * * that if at the time of any vacancy happening in the office of governor general or of a governor of any of the said presidencies no eventual successor appointed under the

(Secs. 31-33.)

authority of this Act shall be present upon the spot, any commander-in-chief, although he shall be then a member of the council of the presidency where such vacancy shall occur, shall not succeed to the temporary government of such presidency unless such commander-in-chief shall have been provisionally appointed to supply the same, but that the vacancy shall be supplied by the counsellor next in rank at the council board to such commander-in-chief, any thing herein contained to the contrary notwithstanding.¹

31. And * * * * that if any vacancy shall happen of the office of a counsellor at either of the said presidencies when no person provisionally or otherwise appointed to succeed thereto shall be then resident on the spot, then and on every such occasion such vacancy shall be supplied, by and at the nomination or appointment of the governor general in council of Fort William or the governor in council of Fort Saint George or Bombay respectively, from amongst the senior merchants in the said company's service in India;

and that the person or persons so nominated shall execute the said office and shall have the same powers in all respects as are given to persons appointed to the council board by the said court of directors, until a successor or successors shall arrive duly appointed by the said court of directors, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office or offices during his or their continuance therein respectively.

32. * * * * and that when any commander-in-chief shall be appointed a member of any of the said councils, such commander shall have rank and precedence at the council board next to the * * * * governor of the same presidency;

But no commander-in-chief shall be entitled to any salary or emolument in respect of his being a member of any of the said councils unless the same shall be specially granted by the court of directors of the said company.

33. Provided always * * * * that when the commander-in-chief of all the forces in India (not being likewise governor general), shall happen to be resident at either of the presidencies of Fort Saint George or Bombay, the said commander-in-chief shall from the time of his arrival and during his continuance at such presidency be a member of the council of such presidency, and during that period the provincial commander-in-chief of the forces of the same presidency, if he shall be a member of the council thereof, shall

succeed to the temporary government of a presidency, unless the commander-in-chief shall have been provisionally appointed.

Vacancy of counsellors when no successors are on the spot to be supplied by the governor in council from the senior merchants.

The commander-in-chief at Fort Saint George or Bombay, when not governor, may be the second member of the council there.

The commander-in-chief in India, not being governor general, while resident at Fort Saint George or Bombay, shall be a member

¹ This section is for the most part now obsolete, presidential commanders-in-chief having been abolished by 56 & 57 Vict., c. 62.

² Words repealed by 55 & 56 Vict., c. 19 (S. L. R.), and by 56 & 57 Vict., c. 62, have been omitted.

(Secs. 34-36.)

of the council and may continue to sit and deliberate, but shall not have any voice at the there. council board.

If any member shall be incapable of attending, the governor of the presidency may call to the council a provisional successor, etc.

34. And * * * * that if any of the members of the council of either of the said presidencies shall by any infirmity or otherwise be rendered incapable of acting or of attending to act as such, or if any of such members shall be absent from the presidency, and the governor general or either of the said governors shall be desirous of having the advice of a full council upon any urgent business, the governor general or such governors respectively shall by virtue of this Act have full power and authority to call any provisional successor appointed then on the spot, or there being none such on the spot, then any senior merchant on the spot to assist at the council board for that turn, but that such provisional successor or other person shall not be entitled to any salary or other emolument in respect thereof, nor shall his acting as an occasional member of council in manner aforesaid deprive him of any office or employment he before enjoyed.

His Majesty, by sign manual, countersigned by the president of the board, may remove any officer or servant of the company in India.

35. And * * * * that it shall and may be lawful to and for the King's Majesty, his heirs and successors, by any writing or instrument under his or their sign manual, countersigned by the president of the board of commissioners for the affairs of India, to remove or recall any person or persons holding any office, employment or commission, civil or military, under the said united company in India for the time being, and to vacate and make void all or every or any appointment or appointments, commission or commissions, of any person or persons to any such offices or employments;

and that all and every the powers and authorities of the respective persons so removed, recalled, or whose appointment or commission shall be vacated, shall cease or determine at or from such respective time or times as in the said writing or writings shall be expressed and specified in that behalf:

Provided always, that a duplicate or copy of every such writing or instrument under his Majesty's sign manual, attested by the said president for the time being, shall, within eight days after the same shall be signed by his Majesty, his heirs or successors, be transmitted or delivered to the chairman or deputy chairman for the time being of the said company, to the intent that the court of directors of the said company may be apprized thereof.

Act not to preclude the directors from recalling their officers or servants.

36. Provided always * * * * that nothing in this Act contained shall extend or be construed to extend to preclude or take away the power of the court of directors of the said company from removing or recalling any of the officers or servants of the said company, but that the said court shall and may at all times have full liberty to remove, recall or dismiss any of such officers or servants at their will and pleasure in the like manner as

(Sect. 37-38.)

if this Act had not been made, any governor general, governor or commander-in-chief appointed by his Majesty, his heirs or successors, through the default of appointment by the said court of directors, always excepted, any thing herein contained to the contrary notwithstanding.

37. And * * * * that the departure from India of any governor general, governor, member of council or commander-in-chief, with intent to return to Europe shall be deemed in law a resignation and avoidance of his office or employment and that the arrival in any part of Europe of any such governor general, governor, member of council or commander-in-chief shall be a sufficient indication of such intent;

and that no act or declaration of any governor general or governor, or member of council during his continuance in the presidency whereof he was so governor general, governor or councillor, except by some deed or instrument in writing, under hand and seal, delivered to the secretary for the public department of the same presidency, in order to its being recorded, shall be deemed or held as a resignation or surrender of his said office; and that the salary and other allowances of any such governor general or other officers respectively shall cease from the day of such his departure, resignation or surrender; and that if any such governor general or any other officer whatever in the service of the said company shall quit or leave the presidency or settlement to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use, and in the event of his not returning back to his station at such presidency or settlement, or of his coming to Europe, his salary and allowances shall be deemed to have ceased from the day of his quitting such presidency or settlement, any law or usage to the contrary notwithstanding.

38. And * * * * that the governor general and counsellors of Fort William, and the several governors and counsellors of Fort Saint George and Bombay, shall at their respective council boards proceed in the first place to the consideration of such matters or questions as shall be proposed by the governor general or by the governors of the said presidencies respectively, and as often as any matter or question shall be propounded by any of the said counsellors it shall be competent to the said governor general or governor respectively to postpone or adjourn the discussion thereof to a future day, provided that no such adjournment shall exceed forty-eight hours, nor shall the matter of question so proposed be adjourned more than twice without the consent of the counsellor who proposed the same.

Departure from India of any governor general, etc., with intent to return to Europe to be deemed a resignation of employment, etc.

While in the presidency no resignation of a governor general, etc., to be valid except delivered in writing to the secretary.

Regulations respecting salaries.

Councils in the first place to consider matters proposed by the governor who may postpone any matters proposed by counsellors.

(Secs. 39-41.)

Proceedings to be expressed to be made by the governor general in council, or governor in council, and to be signed by the secretary.

39. And * * * * that all orders and other proceedings of the governor general and council of Fort William shall be expressed to be made by the governor general in council, and that all orders and other proceedings of the governors and council of Fort Saint George and Bombay, respectively, shall be expressed to be made by the governor in council and not otherwise;

and that the several orders and proceedings of all the said presidencies shall previous to their being published or put in execution be signed by the chief secretary¹ to the council of the presidency by the authority of the governor general in council or governor in council, as the case may be.

Governor general in council at Fort William empowered to superintend the other presidencies.

40. And * * * * that the governor general in council at Fort William shall have and be invested by virtue of this Act with full powers and authority to superintend, control and direct the several governments and presidencies of Fort Saint George and Bombay, and all other governments erected or to be erected by the said united company within the limits of their said exclusive trade, in all such points as shall relate to any negotiations or transactions with the country powers or states or levying war or making peace or the collection or application of the revenues of the said acquisitions and territories in India, or to the forces employed at any of such presidencies or governments or to the civil or military government of the said presidencies, acquisitions or territories, or any of them.

The other presidencies to obey the orders of the governor general in council of Fort William in all cases, if not repugnant to instructions from England.

41. And in order to prevent the embarrassment and difficulty which may otherwise arise from any doubt whether the orders or instructions of the governor general in council of Fort William relate to other points than those aforesaid;

Be it further enacted that notwithstanding any doubt which may be entertained by the said presidencies or governments to whom such orders or instructions shall be given respecting the power of the governor general in council to give such orders, yet the said presidencies or governments shall be bound to obey such orders and directions of the said governor general in council in all cases whatever, except only where they shall have received positive orders and instructions from the said court of directors or from the secret committee of directors by the authority of the said board of commissioners for the affairs of India, repugnant to the orders and instructions of the said governor general in council, and not known to the said governor general and council at the time of dispatching their orders and instructions as aforesaid;

Governor general in council to send dates, etc., of dispatches

and the said governor general in council shall at the time of transmitting all such orders and instructions transmit therewith the dates of and the times of receiving the last dispatches, orders and instructions which they have received from the court of directors, or from the said secret committee

¹ See the Secretaries to Government Act, 1834 (II of 1834).

(Sec. 42.)

by the direction of the said board of commissioners, on any of the points contained therein ;

and the said presidencies, governments and settlements in all cases where they have received any orders from the said court of directors, or from the said secret committee by the direction of the board of commissioners as aforesaid, which they shall deem repugnant to the orders of the said governor general in council of Fort William, and which were not known to the said governor general and council at the time of dispatching their orders and instructions as aforesaid, shall forthwith transmit copies of the same, together with an account of all instructions or orders made by them in consequence thereof to the governor general in council of Fort William, who shall after the receipt of the same dispatch such further orders and instructions to the said presidencies and governments or settlements as the said governor general in council may judge necessary thereupon.

from England on points contained in instructions to presidencies, &c.
Presidencies to transmit to him copies of any dispatches which they deem repugnant to his instructions.

42. And forasmuch as to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honour and policy of this nation ;

Be it further enacted, that it shall not be lawful for the governor general in council of Fort William aforesaid, without the express command and authority of the said court of directors, or of the said secret committee by the authority of the said board of commissioners for the affairs of India, in any case (except where hostilities have actually been commenced or preparations actually made for the commencement of hostilities against the British nation in India, or against some of the princes or states dependant thereon, or whose territories the said united company shall be at such time engaged by any subsisting treaty to defend or guarantee) either to declare war or commence hostilities or enter into any treaty for making war against any of the country princes or states in India, or any treaty for guaranteeing the possessions of any country princes or states ;

War not to be declared, etc., by the governor general in council of Fort William without the command of the directors, etc., except preparations for hostilities shall be made against British, etc.

and that in any such case it shall not be lawful for the said governor general and council to declare war or to commence hostilities or to enter into any treaty for making war against any other prince or state than such as shall be actually committing hostilities or making preparations as aforesaid, or to make such treaty for guaranteeing the possessions of any prince or state, but upon the consideration of such prince or state actually engaging to assist the company against such hostilities commenced or preparations made as aforesaid ;

and in all cases where hostilities shall be commenced or treaty made, the said governor general and council shall, by the most expeditious means they can devise, communicate the same unto the said court of directors or to the

Communication of commencement of hostilities, etc.

(Secs. 43-44.)

to be made to said secret committee, together with a full state of the information and intelligence upon which they shall have commenced such hostilities or made such treaties, and their motives and reasons for the same at large.

43. And * * * * that it shall not be lawful for the governors and counsellors of Fort Saint George and Bombay or of any other subordinate settlement to make or issue any order for commencing hostilities or levying war, or to negotiate or conclude any treaty of peace or other treaty with any Indian prince or state (except in cases of sudden emergency or imminent danger, when it shall appear dangerous to postpone such hostilities or treaty) unless in pursuance of express orders from the said governor general in council of Fort William aforesaid, or from the said court of directors, or from the said secret committee by the authority of the said board of commissioners for the affairs of India;

and every such treaty shall, if possible, contain a clause for subjecting the same to the ratification or rejection of the governor general in council of Fort William aforesaid;

and the said governor and counsellors and other officers of the said presidencies of Fort Saint George and Bombay or other settlements, respectively, are hereby required to pay and yield obedience to all such orders as they shall from time to time, respectively, receive from the said governor general in council of Fort William aforesaid concerning the matters aforesaid;

and that all and singular the said governors, counsellors and other officers who shall refuse or wilfully neglect or forbear to pay obedience to such orders and instructions as they shall receive from the said governor general in council of Fort William as aforesaid shall be liable to be removed, dismissed or suspended from the exercise of their respective offices or powers by order of the said governor general in council of Fort William and be sent to England, and be subject to such further pains and penalties as are or shall be provided by law in that behalf.

44. And * * * * that the governors and counsellors of the said presidencies of Fort Saint George and Bombay, respectively, for the time being and the governors and counsellors or other chief officer or officers of and belonging to any other British settlement in India shall and they are hereby respectively required constantly and diligently to transmit to the said governor general in council at Fort William aforesaid true and exact copies of all orders, resolutions and acts in council of their respective governments, presidencies and councils, and also advice and intelligence of all transactions and matters which shall come to their knowledge material to be communicated to

(Sec. 45.)

the governor general in council of Fort William aforesaid or which the said governor general in council shall from time to time require.

45. And * * * * that it shall and may be lawful for the governor general of Fort William aforesaid for the time being to issue his warrant under his hand and seal directed to such peace officers and other persons as he shall think fit for securing and detaining in custody any person or persons suspected of carrying on, mediately or immediately, any illicit correspondence dangerous to the peace or safety of any of the British settlements or possessions in India with any of the princes, rajahs or zemindars, or any other person or persons having authority in India, or with the commanders, governors or presidents of any factories established in the East Indies by any European power, or any correspondence contrary to the rules, and orders of the said company or of the governor general in council of Fort William aforesaid; and if upon examination taken upon oath in writing of any credible witness or witnesses before the governor general in council of Fort William aforesaid, there shall appear reasonable grounds for the charge, the said governor or general shall be and is hereby authorized and empowered to commit such person or persons so suspected or accused to safe custody, and shall within a reasonable time, not exceeding five days, cause to be delivered to him or them a copy of the charge or accusation, on which he or they shall have been committed; and that the party or parties accused shall be permitted to deliver in his or their defence in writing, together with a list of such witnesses as he or they shall desire to be examined in support thereof;

Governor general of Fort William may issue warrants for securing persons suspected of dangerous correspondence.

Proceedings to be had where reasonable grounds for the charge shall appear against such persons.

and that such witnesses and also the witness or witnesses in support of the charge shall be examined and cross-examined on oath in the presence of the party accused, and their depositions and examinations taken down in writing;

and if, notwithstanding such defence, there shall appear to the said governor general in council reasonable grounds for the charge or accusation and for continuing the confinement, the party or parties accused shall remain in custody until he or they shall be brought to trial in India or sent to England for that purpose;

and that all such examinations and proceedings or attested copies thereof under the seal of the Supreme Court of Judicature at Fort William or of one of the mayor's courts, shall be transmitted to the said court of directors by the first dispatches, in order to their being produced in evidence on the trial of the parties in the event of their being sent for trial to Great Britain;

and in case such person or persons is or are intended to be sent to England the said governor general shall and he is hereby required to cause such person

(Secs. 46-47.)

or persons to be sent to England by the first convenient opportunity, unless such person or persons shall be disabled by illness from undertaking the voyage, in which case he or they shall be sent as soon as his or their state of health will safely admit thereof ;

and that the examination and proceedings so transmitted as aforesaid shall be admitted and received as evidence in all courts of law, subject to any just exceptions to the competency of the said witnesses.

Governors of Fort St. George and Bombay to have the like powers with respect to suspected persons as the governor general.

46. And * * * * that the several governors or governors in council of Fort Saint George and Bombay shall have the like powers, under and subject to the same regulations and restrictions, to secure and detain persons suspected of any such illicit correspondence as aforesaid within their respective presidencies and settlements and of sending them to England for trial as are hereby given to the said governor general or governor general in council of Fort William respectively.

47. And whereas it will tend greatly to the strength and security of the British possessions in India and give energy, vigour and dispatch to the measures and proceedings of the executive government within the respective presidencies, if the governor general of Fort William in Bengal and the several governors of Fort Saint George and Bombay were vested with a discretionary power of acting without the concurrence of their respective councils or forbearing to act according to their opinions in cases of high importance and essentially affecting the public interest and welfare, thereby subjecting themselves personally to answer to their country for so acting or forbearing to act :

Governor general or governors may order measures proposed in council, about which they differ from the other members, to be adopted or suspended, etc., without the consent of the council ;

Be it enacted that when and so often as any measure or question shall be proposed or agitated in the Supreme Council at Fort William in Bengal or in either of the councils of Fort Saint George and Bombay, whereby the interests of the said united company or the safety or tranquillity of the British possessions in India or any part thereof are or may, in the judgement of the governor general or of the said governors respectively, be essentially concerned or affected, and the said governor general or such governors respectively shall be of opinion that it will be expedient either that the measures so proposed or agitated ought to be adopted or carried into execution, or that the same ought to be suspended or wholly rejected, and the several other members of such council then present shall differ in and dissent from such opinion, the said governor general or such governor and the other members of the council shall and they are hereby directed forthwith mutually to exchange with and communicate in council to each other, in writing under their respective hands (to be recorded at large on their secret consultations), the respective grounds and reasons of their respective opinions ;

(Secs. 48-50.)

and if after considering the same the said governor general or such governor respectively, and the other members of the said council, shall severally retain their opinions, it shall and may be lawful to and for the said governor general in the Supreme Council of Fort William, or either of the said governors in their respective councils, to make and declare any order (to be signed and subscribed by the said governor general or by the governor making the same) for suspending or rejecting the measure or question so proposed or agitated, in part or in the whole, or to make and declare such order and resolution for adopting and carrying the measure so proposed or agitated into execution, as the said governor general or such governors in their respective councils shall think fit and expedient;

which said last-mentioned order and resolution so made and declared shall be signed as well by the said governor general or the governor so making and declaring the same as by all the other members of the council then present, and shall, by force and virtue of this Act, be as effectual and valid to all intents and purposes as if all the said other members had advised the same or concurred therein;

and the said members of council, and all officers, civil and military, and all other persons concerned, shall be and they are hereby commanded, authorized and enjoined to be obedient thereto, and to be aiding and assisting in their respective stations in the carrying the same into execution.

48. And * * * * that the governor general or governor who shall declare and command any such order or resolution to be made and recorded without the assent or concurrence of any of the other members of council shall alone be held responsible for the same and the consequences thereof.

the governor making the order to be alone responsible for the same,

49. Provided always * * * * that nothing in this Act contained shall extend or be construed to extend to give power to the said governor general of Fort William in Bengal, or to either of the said governors of Fort Saint George and Bombay respectively, to make or carry into execution any order or resolution which could not have been lawfully made and executed with the concurrence of the councils of the respective governments or presidencies, any thing herein contained to the contrary notwithstanding.

but not to make any order which could not have been made with the consent of the council.

50. Provided also * * * * that nothing in this Act contained shall extend or be construed to extend to give any discretionary power of acting or forbearing to act without the concurrence of the other members of council unto any person on whom the said office of governor general or the said office of governor, respectively, shall happen to devolve by the death or resignation of any governor general or governor for the time being, respectively, or unto any deputy governor general, unless such person shall have been

No person to act without the concurrence of the council, on whom the office of governor general or governor shall devolve by death,

(Secs. 51-52.)

unless provisionally appointed, etc. provisionally appointed to succeed to such respective office by the said court of directors, or unless and until such person shall have been or shall be confirmed in the said office ;

and that in the mean time all orders, resolutions and other acts and things in such presidency shall be determined by the voice of the major part in number of the governor general and counsellors or governor and counsellor present at the making or doing thereof, such governor general or governor having on any equality of voices a casting vote, and not otherwise or in any other manner, any thing in this Act contained to the contrary notwithstanding.

Governor general, etc., not to carry into execution any order against the opinion of the council in certain cases.

51. Provided also * * * * that nothing herein contained shall be construed to give power or authority to the governor general of Fort William in Bengal, or either of the governors of Fort Saint George and Bombay respectively, to make or carry into execution any order or resolution against the opinion or concurrence of the counsellors of their respective governments in any matter which shall come under the consideration of the said governor general and governors in council, respectively, in their judicial capacity, or to make, repeal or suspend any general rule, order or regulation for the good order and civil government of the said united company's settlements, or to impose of his own authority any tax or duty within the said respective governments or presidencies.

The powers of the governor of either of the other presidencies, etc., vested in the governor general during his stay in the presidency.

52. And be it further enacted, that when the governor general of Fort William in Bengal for the time being shall find it expedient to visit the presidency of Fort Saint George or the presidency of Bombay, or any province or place in India, the powers and authorities of the governor or other chief officer or officers of such presidency, province or place shall from the time of the proclamation of the arrival of the said governor general therein be suspended (except with regard to judicial proceedings), and shall so continue to be suspended until other proclamation be made to the contrary by the order of the said governor general, or otherwise until the said governor general shall depart therefrom, and no longer ;

and that during that interval the powers and authorities of the said governor or other chief officer shall be vested in the said governor general, with liberty nevertheless for such governor to sit and act as a member of the council of such presidency ;

and that the said governor general in council at either of the said presidencies of Fort Saint George and Bombay shall be invested with the powers and authorities of the governor in council of the same presidency or settlement, respectively, and also with the same ample powers and

(Secs. 53-54.)

authorities as can or may be exercised by the governor general in council at Fort William by force and virtue of this Act¹.

53. And * * * * that when and so often as the said governor general shall on any occasion be absent from his own government of Bengal such one of the members of the council thereof as the said governor general shall nominate for that purpose shall be styled and act as vice president and deputy governor of Fort William, and that the government of the said presidency shall be exercised by such vice president or deputy and the other members or member of the said council in like manner, and no further or otherwise than as the government of the said presidencies of Fort Saint George and Bombay may be exercised by the governors in council there, subject nevertheless to the restrictions in this Act contained.

54. And * * * * that if the said governor general during his absence from his own government of Bengal shall judge it necessary to issue any orders or directions to any of the said governments or presidencies in India or to any of the officers or servants of the said company acting under the authority of any of the said presidencies, without previously communicating such orders or instructions to the said respective governments under the authority of which such officers or servants shall be acting, it shall and may be lawful for him to issue the same ;

and that the said respective governments or presidencies, and also such officers and servants, shall, and they are hereby severally and respectively authorized and required to, obey the same and such orders and instructions shall be of the same force as if the same had been made by the said governor general in council at Fort William but not of any greater or other force or validity ;

and that if such orders or directions shall be made by the said governor general of his own sole authority or without the concurrence of the other members of council of either of the said presidencies of Fort Saint George and Bombay respectively in that case the said governor general shall be alone held responsible for the same in the like manner as for any orders or resolutions by him made in council at Fort William of his own sole authority without the concurrence of the other members of the same council according to the directions and true intent and meaning of this Act :

Provided always that such governor general shall and he is hereby required to transmit by the first opportunity to the governors and councils of the respective presidencies to which the officers or servants to whom any such

¹ This section was virtually repealed by 3 & 4 Wm. IV, c. 85, s. 67.

(Secs. 55-57.)

court of
directors.

orders or instructions shall be so sent to be executed shall belong, copies of such orders and instructions respectively, with his reasons or inducements for issuing the same, and also to transmit to the court of directors of the said company, by the first opportunity that shall or may occur, a copy of all orders and instructions by him so sent to any of the said governments, presidencies, officers or servants respectively, together with his reasons and inducements for sending or issuing the same.

Directors,
with the
approbation
of the board,
may suspend
and again
revive the
powers of the
governor
general to act
upon his own
authority.

55. Provided also * * * * that it shall and may be lawful for the court of directors of the said company with the approbation of the board of commissioners for the affairs of India to suspend all or any of the powers hereby given to the governor general of Fort William to act upon his own sole authority at and for such time or times as they may judge expedient or necessary, and that the same shall be suspended accordingly from the time of the arrival of their orders for that purpose in India, and also for the said court of directors with such approbation as aforesaid, to revive the said powers when and as they shall think fit, any thing herein contained to the contrary notwithstanding.

56. [*Rep. 24 & 25 Vict., c. 54, s. 7.*]

Regulations
for filling up
vacancies
in the civil
line.

57. And * * * * that all vacancies happening in any of the offices, places or employments in the civil line of the company's service in India (being under the degree of counsellor) shall be from time to time filled up and supplied from amongst the civil servants of the said company belonging to the presidency wherein such vacancies shall respectively happen, subject only to the restrictions in this Act contained, and not otherwise, (that is to say,) that in the filling up and supplying such vacancies no office, place or employment the salary, perquisites and emoluments whereof shall exceed five hundred pounds per annum shall be conferred upon or granted to any of the said servants who shall not have been actually resident in India as a covenanted servant of the said company for the space of three years at the least in the whole antecedent to such vacancy;

and if the salary, perquisites and emoluments of any office, place or employment shall exceed one thousand five hundred pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the said service for the space of six years at the least in the whole antecedent to such vacancy;

and if the salary, perquisites and emoluments of any office, place or employment shall exceed three thousand pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not

(Secs. 58-63.)

have been actually resident in India in the said company's service for the space of nine years at the least in the whole ;

and if the salary, perquisites and emoluments of any office, place or employment shall exceed four thousand pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the company's service for the space of twelve years at the least in the whole antecedent to such vacancy ;

and that all appointments, advancements and promotions which shall be made for supplying any such vacancies other than as aforesaid shall be null and void.

58. And * * * * no person shall for the future be capable of taking in the civil line of the company's service two or more offices, places or employments, the joint amount of the salaries, perquisites and emoluments of which shall exceed in the whole the annual salary, perquisites and emoluments respectively hereinbefore in that behalf prescribed, any law or usage to the contrary notwithstanding.¹

No person to hold two offices, the salaries of which amount to more than the prescribed sum.

59 to 61. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.) ; s. 61 rep. as to B. I. by XIV of 1870, s. 1 and sch. Ss. 59 and 60 omitted as being inapplicable to India.*²]

62. And * * * * that the demanding or receiving any sum of money or other valuable thing as a gift or present or under colour thereof, whether it be for the use of the party receiving the same or for or pretended to be for the use of the said company or of any other person whatsoever by any British subject holding or exercising any office or employment under his Majesty or the said united company in the East Indies shall be deemed and taken to be extortion and a misdemeanor at law, and shall be proceeded against and punished as such under and by virtue of this Act, and the offender shall also forfeit to the King's Majesty, his heirs and successors, the whole gift or present so received or the full value thereof.

Receiving gifts to be deemed a misdemeanor.

63. Provided always * * * * that the court or jurisdiction before whom any such offence shall be tried shall have full power and authority to direct the said present or gift or any part thereof to be restored to the party who gave the same, or to order the whole or any part thereof or of any fine which the court shall set on the offender to be paid or given to the prosecutor or informer, as such court in its discretion shall think fit.

The court may order gifts to be restored, or gifts or fines to be given to the prosecutors.

¹ S. 58 has been repealed as to the U. K. by 50 and 51 Vict., c. 59 (S. L. R.).

² It is doubtful whether S. 60 is really inapplicable to India, and it should perhaps be expressly repealed by Indian legislation.

(Secs. 64-67.)

Counsellors at law, etc., may take fees in their professions.

64. Provided always * * * * that nothing herein contained shall extend or be construed to extend to prohibit or prevent any person exercising the profession of counsellor at law, physician or surgeon, or any chaplain, from accepting, taking or receiving fees, gratuities or rewards (*bonâ fide*) in the way of his profession only.

Neglect to execute the orders of the directors, etc., to be deemed a misdemeanor or;

65. And * * * * that the wilful disobeying or the wilfully omitting, forbearing or neglecting to execute the orders or instructions of the court of directors of the said company by any governor general, governor, president, counsellor or commander-in-chief or by any other of the officers or servants of the said united company in the East Indies (unless in cases of necessity, the burthen of the proof of which necessity shall lie on the party so disobeying or omitting or forbearing to execute such orders and instructions as aforesaid) and every wilful breach of the trust and duty of any office or employment by any such governor general, governor, president, counsellor or commander-in-chief, or by any of the officers or servants of the said united company in the East Indies, shall be deemed and taken to be a misdemeanor at law, and shall or may be proceeded against and punished as such by virtue of this Act.

as also the making of any corrupt bargain for giving up or obtaining any employment in India.

66. And * * * * that the making or entering into or being a party to any corrupt bargain or contract for the giving up or for obtaining or in any other manner touching or concerning the trust and duty of any office or employment under the crown or the said united company in the East Indies, by any British subject whomsoever there resident, shall be deemed and taken to be a misdemeanor at law and shall be proceeded against and prosecuted as such by virtue of this Act.

His Majesty's subjects amenable to courts of justice in India and Great Britain for offences in the territories of native princes.

67.¹ And * * * * that all his Majesty's subjects as well servants of the said united company as others, shall be and are hereby declared to be amenable to all courts of justice, both in India and Great Britain, of competent jurisdiction to try offences committed in India, for all acts, injuries, wrongs, oppressions, trespasses, misdemeanors, offences and crimes whatever by them or any of them done or to be done or committed in any of the lands or territories of any native prince or state or against their persons or properties, or the persons or properties of any of their subjects or people, in the same manner as if the same had been done or committed within the territories directly subject to and under the British Government in India.

68 and 69 [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.). Omitted as being spent or inapplicable to India.*²]

¹ Section 67 has been repealed by Act XI of 1872, s. 2 and Sch. 1.

² It is doubtful whether s. 69 is really inapplicable to India, and it should perhaps be expressly repealed by Indian legislation.

(Secs. 70-140.)

70. And * * that no person who shall have held any civil or military station whatever in India in the service of the said united company, being under the rank or degree of a member of council or commander-in-chief of the forces, and who, having departed from India by leave of the governor general in council or governor in council, shall not return to India within the space of five years next after such departure, shall be entitled to any rank or restoration of office or be capable of again serving in India, either in the European or Native corps of troops or in the civil line of the company's service, unless in the case of any civil servant of the company it shall be proved to the satisfaction of the court of directors that such absence was occasioned by sickness or infirmity, or unless such person be permitted to return with his rank to India by a vote or resolution passed by way of ballot by three parts in four of the proprietors assembled in general court specially convened for that purpose, whereof eight days previous notice of the time and purpose of such meeting shall be given in the London Gazette, or unless in the case of any military officer it shall be proved to the satisfaction of the said court of directors and the board of commissioners for the affairs of India that such absence was occasioned by sickness or infirmity or some inevitable accident.¹

No person under the degree of member of council or commander-in-chief, who shall not return to India within five years from his leave to depart, shall be entitled to rank, &c., or to serve again except as herein provided.

71 to 136. [*Rep. 35 & 36 Vict., c. 63 (S. L. R.).*]

137. And * * * * that it shall not be lawful for any governor general or governor or any member of council of the said presidencies in India to be concerned in any trade or traffick whatever except on account of the said company, nor for any collector, supervisor or other person employed or concerned in the collection of the revenues or the administration of justice in the provinces of Bengal, Behar and Orissa or either of them, or their agents or servants, or any person or persons in trust for them or any of them, to carry on or be concerned in or to have any dealings or transactions by way of traffick or trade at any place within any of the provinces in India or other parts, or to buy any goods and sell the same again or any part thereof at the place where he or they bought the same, or at any other place within the same province or any other such province or country respectively, except on account of the said company; nor shall it be lawful for any of the judges of the Supreme Court of Judicature to be concerned in any trade or traffick whatever; * *.

No governor general, etc., to trade except on account of the company.

No judge of Supreme Court to be concerned in any trade, or to have any dealings or transactions by way of trade, or to buy any goods and sell the same again or any part thereof at the place where he or they bought the same, or at any other place within the same province or any other such province or country respectively, except on account of the said company.

138 and 139. [*Rep. 35 & 36 Vict., c. 63 (S. L. R.).*]

140. And * * * *² that all penalties, forfeitures, seizures, causes of seizure, crimes, misdemeanors and other offences, which shall arise

¹ Modified by 53 Geo. 3, c. 155, s. 84.

² The words repealed by Act XIV of 1870, s. 1 and sch., have been omitted.

(Sec. 141.)

prosecuted,
etc.

or be incurred or made under or shall be committed against this Act, shall be sued for, prosecuted, examined, recovered and adjudged in any of his Majesty's courts of record at Westminster, or in the Supreme Court of Judicature at Fort William in Bengal, or in one of the mayor's courts at Madras or Bombay respectively, in manner following; that is to say, all such pecuniary penalties and all forfeitures of ships, vessels, merchandize and goods shall and may be sued for, condemned and recovered by action, bill, suit or information wherein no essoin, protection, wager of law or more than one imparlance shall be granted or allowed; and all such seizures whether of any person or of any ships, vessels, merchandizes and goods, and all causes of such seizure, shall be cognizable in such actions, suits or prosecutions as shall bring into question or relate to the lawfulness or regularity of any such seizure;

and all such offences as by this Act are not made punishable by pecuniary penalties or by any forfeitures of goods, but by fine or imprisonment, or both, or are hereby created without providing any particular punishment, shall be prosecuted by indictment or information as misdemeanors for breach thereof and shall be punished by fine or imprisonment, or both, at the discretion of the court in which such prosecution shall by virtue of this Act be begun and carried on;

and if such prosecution for a misdemeanor shall be in any of the said courts in the East Indies, and the person or persons prosecuted shall be there convicted, it shall be lawful for such court to order, as part or for the whole of the punishment, any such person or persons to be sent and conveyed to Great Britain.

How actions
shall be laid.

141. And * * * * that whenever any action, bill, suit, information or indictment shall be brought or prosecuted in any of his Majesty's courts of record at Westminster for any offence against this Act, whether for a penalty, forfeiture or misdemeanor, the offence shall be laid or alleged to have been committed in the city of London or county of Middlesex, at the option of the informer or prosecutor;

Limitation of
actions, and
process.

and all actions, bills, suits, informations and indictments for any offence or offences against this Act, whether filed, brought, commenced or prosecuted for a penalty or forfeiture, or for a misdemeanor, in any of his Majesty's courts of record at Westminster, or in the said Supreme Court or any such mayor's court as aforesaid, shall be brought and prosecuted within six years next after the offence shall be committed, and a *capias* shall issue in the first process, and in the case of an offence hereby made punishable by any penalty or forfeiture such *capias* shall specify the sum of the penalty or forfeiture sued for, and the person or persons sued or prosecuted

(Sec. 156.)

for such penalty shall on such *capias* give to the person or persons to whom such *capias* shall be directed sufficient bail or security, by natural-born subjects or denizens, for appearing in the Court out of which such *capias* shall issue, at the day or return of such writ, to answer such suit or prosecution, and shall likewise at the time of such appearance give sufficient bail or security, by such persons as aforesaid, in the same court, to answer and pay all the forfeitures and penalties sued for, if he, she or they shall be convicted of such offence or offences, or to yield his, her or their body or bodies to prison ;

but if the prosecution shall be for any offence or offences against this Act punishable only as a misdemeanor, then the person or persons against whom such *capias* shall issue, being thereupon arrested, shall be imprisoned and bailable according to law as in other cases of misdemeanor.

142 to 150. [*Rep. 35 & 36 Vict., c. 63 (S. L. R.).*]

151. [*Rep. as to U. K. 47 Geo. 3, Sess. 2, c. 68, s. 6¹; rep. also as to B. I. by II of 1869, s. 2 and sch.*]

152. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.); rep. also as to B. I. by II of 1869, s. 2 and sch.*]

153 and 154. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.); rep. also as to B. I. by X of 1875, s. 2 and sch.*]

155. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.); rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

156. And whereas by the charter of justice under the great seal of Great Britain, bearing date the twenty-sixth day of March, in the fourteenth year of his present Majesty's reign, for establishing the supreme court of judicature of Fort William in Bengal, his Majesty did grant, ordain, establish and appoint that the said supreme court of judicature should be a court of admiralty, with power and authority to enquire, hear, try, examine and determine by the oaths of British subjects all treasons, murders, piracies, robberies, felonies, maimings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities and maritime causes whatsoever, according to the laws and customs of the Admiralty of England, done, perpetrated or committed upon the high seas, rivers, ports, creeks, harbours and places overflowed within the ebbing and flowing of the sea and high water mark, within, about and throughout the provinces, countries or districts of

Charter of
justice, dated
26th March,
1774, recited.

¹ The reference here to 47 Geo. 3, c. 68, is a mistake, although taken from the Statutes Revised, Ed. 1889.

(Sec. 156.)

Bengal, Behar and Orissa and the territories or islands adjacent thereto and dependant thereon, the cognizance whereof doth belong to the jurisdiction of the Admiralty, as the same is used and exercised in that part of Great Britain called England :

And whereas doubts have arisen how far the jurisdiction of the said supreme court in criminal matters is limited by the said charter to offences committed on the coasts of Bengal, Behar and Orissa, territories or islands respectively, within the ebbing and flowing of the sea and high water mark : and inasmuch as it is essentially necessary that the Admiralty-jurisdiction of the said supreme court of judicature should extend to crimes and offences committed on the high seas at large :

Power
given by
recited charter
to the
supreme
court of
judicature
to extend to
the high
seas

Be it further enacted and declared, that the power and authority of the said court granted to them by the said charter of justice shall extend and be extended to the high seas, and that the said court shall by force and virtue of this Act have full power and authority to enquire, hear, try, examine and determine, by the oaths of honest and lawful men, being British subjects resident in the town of Calcutta, all treasons, murders, piracies, robberies, felonies, mainings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities, and maritime causes whatsoever, according to the laws and customs of the Admiralty of England, done, perpetrated or committed upon any of the high seas, and to fine, imprison, correct, punish, chastise and reform parties guilty and violators of the laws, in like and in as ample manner to all intents and purposes as the said court might or could do if the same were done, perpetrated or committed within the limits prescribed by the said charter of justice, and not otherwise or in any other manner.

157. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also as to B. I. by IV of 1871, s. 2 and Sch. I.*]

158 to 160. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.); s. 159 rep. also as to B. I. by XIV of 1870, s. 2 and Sch. I. Ss. 158 and 160 omitted as being obsolete or inapplicable to India.*¹]

161. [*Rep. as to U. K. 4 & 5 Will. 4, c. 33. Omitted as being inapplicable to India.*]

162. [*Rep. as to B. I. by IX of 1871, s. 2 and Sch. I.*]

163. [*Rep. as to U. K. 50 & 51 Vict., c. 59 (S. L. R.). Omitted as being spent.*]

¹ S. 158 provides for the appointment by the justices of scavengers in Calcutta, and ought perhaps to be expressly repealed by Indian legislation.

THE EAST INDIA COMPANY (MONEY) ACT, 1794.¹

(34 Geo. 3, c. 41.)

An Act to empower the East India Company to continue a Bond Debt of two millions, and to increase the same by a further sum, as circumstances may require.
[9th May, 1794.]

WHEREAS by an Act made in the last session of Parliament, intituled
 "An Act for placing the stock called East India Annuities under the manage-
 ment of the governor and company of the Bank of England, and ingrafting
 the same on the three pounds per centum reduced annuities, in redemption
 of a debt of four millions two hundred thousand pounds owing by the publick
 to the East India Company, and for enabling the said company to raise
 a sum of money by a further increase of their capital stock, to be applied in
 discharge of certain debts of the said company," it was amongst other things
 enacted, that it should be lawful for the said company, with the consent of the
 commissioners of his Majesty's Treasury or any three of them, or the high
 treasurer for the time being, at any time or times thereafter, to open books
 and receive subscriptions for enlarging their then present capital stock or fund
 of five millions to any sum not exceeding the further sum of one million,
 so as to make their whole capital stock the sum of six millions; and that
 the said company should out of the monies to arise by the said subscriptions,
 in the first place apply so much thereof as should be sufficient for the purpose
 in reducing their bond debt in Great Britain to the sum of one million five
 hundred thousand pounds, and after such reduction made or a sufficient sum
 set apart and reserved for that purpose, that the said company should and
 might apply and dispose of the residue of the monies arising by the said
 subscriptions in the discharge of such other debts due or coming due from
 them as they should think fit :

Preamble.
Recital of
33 Geo. 3, c.
47.

And it was thereby also enacted, that after the said bond debt should have
 been so reduced to one million five hundred thousand pounds as aforesaid it should
 not be lawful for the said company again to increase the same beyond that
 amount, unless with the approbation of the board of commissioners for the
 affairs of India for that purpose in writing first had and obtained and that
 the whole increase to be made to the said bond debt should in nowise exceed
 the sum of five hundred thousand pounds :

And whereas the said company have accordingly received subscriptions
 in the manner by the said Act directed, whereby their capital stock hath
 been increased to six millions, and the said company have out of the monies
 arising by the said subscriptions, paid, bought up or otherwise discharged

¹Certain bonds created under this Statute are said to be still outstanding. It is, therefore, reproduced.

(Preamble.)

bonds to the amount of one million one hundred and fifty thousand five hundred and seventy-five pounds or thereabouts, and have set apart a sufficient sum for the purchase or discharge of as many more bonds as will reduce the said debt to two millions :

And whereas in the present state of the affairs of the said company it will be for their convenience and advantage that, instead of applying any further part of the money which hath arisen by the said subscriptions in or towards a further reduction of their said bond debt beyond the sum already set apart as aforesaid, the company should be permitted to apply the same to the general purposes of their commerce and to continue on foot the said bond debt of two millions, and it is also expedient that the said company should be permitted to increase their said bond debt by a further sum not exceeding one million, as circumstances may require :

Company
may continue
their bond
debt of
2,000,000*l.*
and borrow a
further sum
of 1,000,000*l.*
upon bonds.

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for the said company to keep on foot and continue their said bond debt in Great Britain at the aforesaid amount of two millions, and to apply the surplus monies of the said subscriptions remaining, after reducing or setting apart a sufficient sum to reduce the said bond debt to the amount aforesaid, to and for the general purposes of their trade and commerce ;

and further, that it shall and may be lawful for the said company, by and with the approbation and consent of the board of commissioners for the affairs of India for the time being, at any time or times hereafter to borrow upon and issue bonds under their common seal for any further sum or sums of money not exceeding in the whole the sum of one million, for the purposes of their trade, as circumstances may require, anything contained in the said Act or in any other Act to the contrary notwithstanding.

THE EAST INDIA COMPANY ACT, 1797.¹

(37 Geo. 3, c. 142.)

An Act for the better Administration of Justice at Calcutta, Madras and Bombay ; and for preventing British Subjects from being concerned in Loans to the Native Princes in India. [20th July, 1797.]

Preamble.
13 Geo. 3,
c. 68.

WHEREAS by an Act passed in the thirteenth year of the reign of his present Majesty, intituled " An Act for establishing certain regulations for

¹ For digest and notes, see Ilbert's *Government of India*, pp. 291—293.

(Secs. 2—11.)

the better management of the affairs of the East India Company, as well in India as in Europe," it was enacted, that it should be lawful for his Majesty, by letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Fort William in Bengal, to consist of a chief justice and three other justices, being barristers of England or Ireland of not less than five years standing, to be named from time to time by his Majesty, his heirs and successors: and whereas by the said Act and by divers other Acts of Parliament certain jurisdictions, powers and authorities were given to the said court to be exercised in the manner therein directed: * * * *

1. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.)*.]

2. And whereas his Majesty has by law no power to direct the application of any part of the revenues of the territorial acquisitions in India as a provision for a chief justice or other judge of the said supreme court, who, from infirmity or other causes approved of by his Majesty, may return to Europe: and whereas it is expedient that such power, to a limited extent, be vested in his Majesty, his heirs and successors:

His Majesty may direct the payment of a yearly sum out of the territorial revenues to any chief justice or other judge returning to Europe.

Be it therefore enacted by the authority aforesaid, that * * *¹ it shall and may be lawful for his Majesty, his heirs and successors, by warrant under his royal sign manual, to authorize and direct the payment of a competent yearly sum out of the revenues arising from the territorial acquisitions in India, to be applied for the use and behoof of any chief justice or other judge who from age, infirmity or other cause to be approved of by his Majesty, his heirs and successors, shall return to Europe.

3 to 10. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.)*; ss. 4 to 8 *rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

11. And * * * the said courts so to be erected as aforesaid shall have full power and authority to hear, try and determine all and all manner of suits and actions, either civil or criminal, which by the authority of any Act or Acts of Parliament may now be heard, tried or determined by the mayor's courts at Madras or Bombay respectively, or by the courts of oyer and terminer or gaol delivery there; and all powers, authorities and jurisdictions, of what kind or nature soever, which by any Act or Acts of Parliament may be or are directed to be exercised by the said mayor's courts or the courts of oyer and terminer and gaol delivery, shall and may be as fully and effectually exercised by the said courts to be erected in the manner aforesaid as the same might have been exercised and enjoyed by the said mayor's courts or courts of oyer and terminer and gaol delivery respectively:

Courts may try all suits which, by authority of Parliament, may now be tried by the mayor's courts, or courts of oyer and terminer.

¹ Words repealed by 55 & 56 Vict., c. 19 (S. L. R.), have been omitted.

The governor and council, and recorder of the court, not subject to arrest.

Jurisdiction of the courts not to extend to certain matters and persons.

Provided always, that nothing in this Act shall extend to subject the person of the governor or any of the council at the respective settlements, or the person of the recorder of the said court, to be arrested or imprisoned in any suit, action or proceeding in the said court ;

nor shall it be competent for the said courts within their respective jurisdictions to hear or determine or to entertain and exercise jurisdiction in any suit or action against the governor or any of the council at the said settlements of Madras and Bombay respectively, for or on account of any act or order, or any other act, matter or thing whatsoever, counselled, ordered or done by them in their public capacity or acting as governor and council ;

nor shall the said court have or exercise any jurisdiction in any matter concerning the revenue under the management of the said governor and council respectively, either within or beyond the limits of the said towns, forts or factories, or concerning any act done according to the usage and practice of the country and the regulations of the governor and council ;

and no person shall be subject to the jurisdiction of any of the said courts for or by reason of being a landowner, land-holder or farmer of land or of land rent, or for receiving a pension, or payment in lieu of any title to or ancient possession of land or land rent, or for receiving any compensation or share of profits for collecting rents payable to the public out of such lands or districts as are actually farmed by himself or those who are his under tenants by virtue of the farm, or for exercising within the said lands or farms any ordinary or local authority commonly annexed to the possession or farm thereof, or for or by reason of his becoming security for the payment of the rents reserved or otherwise payable out of any lands or farms, or farms of lands, within the dominion subject to the governments of Madras and Bombay respectively ;

and no person for or by reason of his being employed by the said company or the governor and council, or by any person deriving authority under them for or on account of his being employed by a native or the descendant of a native of Great Britain, shall become subject to the jurisdiction of the said courts respectively, in any matter of inheritance or succession to goods or lands, or in any matter of dealing or contract between party or parties, except in actions for wrongs or trespasses only.

Rights of fathers and masters of families preserved.

12. And in order that due regard may be had to the civil and religious usages of the natives,

Be it enacted, that the rights and authorities of fathers of families and masters of families, according as the same may be exercised by the Gentu or Mahomedan law, shall be preserved to them within their families respectively,

(Secs. 13-14.)

nor shall the same be violated or interrupted by any of the proceedings of the said courts, nor shall any act done in consequence of the rule or law of cast, so far as respects the members of the same family only, be deemed a crime, although the same may not be justifiable by the laws of England.

13. And * * * * the said courts so to be erected as aforesaid shall have full power to hear and determine all suits and actions that may be brought against the inhabitants of Madras and Bombay respectively, in the manner that shall be provided by the said charter ;

yet nevertheless their inheritance and succession to lands, reuts and goods, and all matters of contract and dealing between party and party, shall be determined, in the case of Mahomedans, by the laws and usages of the Mahomedans, and where the parties are Gentus, by the laws and usages of the Gentus, or by such laws and usages as the same would have been determined by if the suit had been brought and the action commenced in a native court; and where one of the parties shall be a Mahomedan or Gentu, by the laws and usages of the defendant ;

and in all suits so to be determined by the laws and usages of the natives the said court shall make such rules and orders for the conduct of the same and frame such process for the execution of their judgments, sentences or decrees, as shall be most consonant to the religious and manners of the said natives, and to the said laws and usages respectively, and the easy attainment of the ends of justice ;

and such means shall be adopted for compelling the appearance of witnesses and taking their examination as shall be consistent with the said laws and usages, so that the said suits shall be conducted with as much care and at as little expense as is consistent with the attainment of substantial justice.

14. And * * * * no action for wrong or injury shall be against any person whatever exercising a judicial office in any country court for any judgment, decree or order of the said court, or against any person for any act done by or in virtue of the order of the said court ;

and in case any information is intended to be brought against any such person or officer, the same shall be brought and proceeded in in the same manner, and to all intents and purposes in the same form, and to the same effect, as such informations are directed to be proceeded in before the supreme court of judicature at Calcutta in Bengal by an Act passed in the twenty-first year of his Majesty's reign, intituled "An Act to explain and amend so much of an Act made in the thirteenth year of the reign of his present Majesty, intituled 'An Act for establishing certain regulations for the better management of the affairs of the East India Company as well in

Courts may determine suits against the inhabitants according to the charter ; but their inheritance of lands, etc., to be determined as would have been done in a native court ; and where one party is a Mahomedan or Gentu, by the usages of the defendant, etc.

No action for wrong to be against a judicial officer for any order of court, nor for any act done by virtue of any such order ; but if any information is intended it must be brought according to 21 Geo. 3, c. 70.

(Secs. 27—28.)

India as in Europe,' as relates to the administration of justice in Bengal, and for the relief of certain persons imprisoned at Calcutta in Bengal under a judgement of the supreme court of judicature, and also for indemnifying the governor general and council of Bengal, and all officers who have acted under their orders or authority, in the undue resistance made to the process of the supreme court."

15 to 26. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.) ; ss. 15 and 17 to 26 rep. also as to B. I. by XIV of 1870, s. 1 and sch.; s. 16 rep. also as to B. I. by VI of 1874, s. 2 and sch.*]

All new forms of process to be transmitted to the board for affairs of India.

27. And * * * * all new forms of process, or rules and orders for the execution thereof, shall be transmitted to the president of the board of commissioners for the affairs of India, to be laid before his Majesty for his royal approbation, correction or refusal;

and such process shall be used and such rules shall be observed until the same shall be repealed or varied, and in the last case with such variation as shall be made therein.

28. And whereas the practice of British subjects lending money or being concerned in the lending of the same, or in transactions for the borrowing money for or lending money to the native princes in India has been productive of much mischief and is the source of much usury and extortion:

and whereas the wholesome orders of the court of directors of the United Company of Merchants trading to India have not been sufficient to restrain and repress the same:

and whereas it is highly desirable that such practices should be prevented in future:

From Dec. 1, 1797, no British subject to lend any money or be concerned in raising any money for native princes without consent of the court of directors or the governor in council, and any person doing so may be prosecuted for a misdemeanor.

Be it therefore enacted, that from and after the first day of December next, no British subject shall by himself, or by any other person directly or indirectly employed by him, lend any money or other valuable thing to any native prince in India, by whatever name or description such native prince shall be called, nor shall any British subject, either by himself or by any other person directly or indirectly employed by him, be concerned in the lending any money to any such native prince, nor shall any British subject be concerned either by himself or by any other person, either directly or indirectly, in raising or procuring any money for any such native prince or as being security for such loan or money, nor shall any British subject lend any money or other valuable thing to any other person for the purpose of being lent to any such native prince, nor shall any British subject, by himself or by any other person, either directly or indirectly, for his use and benefit, take, receive, hold, enjoy or be concerned in any bond, note or

(Sec. 29.)

(Preamble.)

other security or assignment, granted or to be granted by any such native prince after the first day of December next for the loan or for the re-payment of money or other valuable thing, without the consent and approbation of the court of directors of the East India Company, or the consent and approbation of the governor in council of one of the said company's governments in India, first had and obtained in writing;

And every person doing, acting or transacting, or being concerned in any actings, doings and transactions, contrary to this Act, shall be deemed and taken to be guilty of a misdemeanor at law, and shall and may be proceeded against and punished as such by virtue of this Act before any court of competent jurisdiction;

Securities for money lent contrary hereto to be void.

and all bonds, notes, assignments or securities for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any British subject, contrary to the true intent and meaning of this Act, shall be and the same are hereby declared to be null and void to all intents and purposes.

29. And * * * * when and so often as any information shall be given or complaint made to any of the governments of the said united company in the East Indies of any person having acted contrary to the provisions of this Act, such governments shall forthwith lay the case before the company's law officers at the settlement where it arises, who shall take the same into their consideration and report their opinion thereupon whether the same is a proper case for prosecution (together with their reasons for the same), which report shall be transmitted home to the court of directors by the first convenient opportunity.

On complaint to the governments in India for acting contrary to this Act, the case to be laid before the law officers, whose report shall be transmitted to the court of directors.

30. [Rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also as to B. I. by XIV of 1870, s. 1 and sch.]

THE GOVERNMENT OF INDIA ACT, 1800.¹

(39 & 40 Geo. 3, c. 79.)

An Act for establishing further Regulations for the Government of the British Territories in India, and the better Administration of Justice within the same.

[28th July, 1800.]

WHEREAS the territorial possessions of the United Company of Merchants of England trading to the East Indies, in the peninsula of India, have become

¹ For digest and notes, see Ilbert's *Government of India*, p p. 294-295.

(Preamble.)

so much extended as to require further regulations to be made for the due government of the same :

38 Geo. 3,
c. 52.

and whereas by an Act of Parliament made and passed in the thirty-third year of the reign of his present Majesty, intituled "An Act for continuing in the East India Company for a further term the possession of the British territories in India, together with their exclusive trade, under certain limitations, for establishing further regulations for the government of the said territories and the better administration of justice within the same, for appropriating to certain uses the revenues and profits of the said company, and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay," it is enacted, that the whole civil and military government of the presidency of Fort Saint George on the coast of Coromandel, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast, and also so much and such parts of the territories and possessions on the coast of Orissa with the revenues of the same as had been and then were under the administration of the government or presidency of Fort Saint George, should be and were thereby vested in a governor and three counsellors of and for the said presidency of Fort Saint George, subject to such rules, regulations and restrictions as were therein mentioned ; and that the whole civil and military government of the presidency and island of Bombay on the coast of Malabar, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast of Malabar, should be and were thereby vested in a governor and three counsellors of and for the said presidency and island of Bombay, subject to the provision therein mentioned :

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act it shall and may be lawful for the court of directors of the said company for the time being to declare and appoint what part or parts of the said territorial acquisitions, or of any other now subject to the government of the said presidency of Fort Saint George or the said presidency of Bombay, together with the revenues arising therefrom and the establishment of civil servants connected therewith respectively, shall from thenceforth hereafter be subject to the government of either and which of the said presidencies, or of the presidency of Fort William in Bengal, and from time to time, as occasion may require, to revoke and alter, in the whole or in part such appointment, and to make such new distribution of the same as to them

The court of directors may appoint what parts of the territorial acquisitions, revenues, etc., shall be subject to either and which of their presidencies, subject to the controul of the Commissioners for the Affairs of India.

(Sec. 2.)

shall seem fit and expedient, subject nevertheless in all cases to the superintendence, direction and controul of the Commissioners for the Affairs of India, in like manner as any acts or orders of the said court of directors are now by law subject;

and all such territorial acquisitions, and the revenues arising therefrom and the establishment of civil servants connected therewith, shall from and after the time, and subject as to such time to the conditions and limitations to be by the said court of directors limited and appointed for such purposes respectively, be to all intents and purposes whatsoever annexed to and made subject to such presidency, and to the court or courts of judicature established or to be established therein respectively.

2. And whereas his late Majesty King George the Second did by his letters patent, bearing date at Westminster the eighth day of January in the twenty-first year of his reign, grant unto the said United Company of Merchants of England trading to the East Indies his royal charter, thereby amongst other things constituting and establishing courts of civil, criminal and ecclesiastical jurisdiction at the united company's respective settlements at Madras, Patnam, Bombay or the island of Bombay, and Fort William in Bengal: Letters patent of Geo. 2, dated the 8th Jan. in the 21st year of his reign.

and whereas the said charter, in so far as it respects the administration of justice at Madras, has been altered and changed by virtue of an Act passed in the thirty-seventh year of his present Majesty, intituled "An Act for the better administration of justice at Calcutta, Madras and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India:"

and whereas the said charter, so far as it respects the administration of justice at Fort William in Bengal, has also been altered and changed by virtue of an Act passed in the thirteenth year of his present Majesty, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company as well in India as in Europe," and by divers subsequent statutes:

and whereas it may be expedient for the better administration of justice in the said settlement of Madras that a supreme court of judicature should be established at Madras, in the same form and with the same powers and authorities as that now subsisting by virtue of the several Acts before-mentioned at Fort William in Bengal;

(Secs. 3-7.)

His Majesty may establish a supreme court of judicature at Madras, to consist of the like number of persons, and with the like powers, etc., as the supreme court at Fort William.

Be it therefore enacted, that it shall and may be lawful for his Majesty, his heirs and successors, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Madras aforesaid, to consist of such and the like number of persons, to be named from time to time by his Majesty, his heirs and successors, with full power to exercise such civil, criminal, admiralty and ecclesiastical jurisdictions, both as to natives and British subjects, and to be invested with such power and authorities, privileges and immunities, for the better administration of the same, and subject to the same limitations, restrictions and controul within the said Fort Saint George and town of Madras and the limits thereof and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependant upon the said government of Madras, as the said supreme court of judicature at Fort William in Bengal, by virtue of any law now in force and unrepealed or by this present Act, doth consist of, is invested with or subject to, within the said Fort William or the kingdoms or provinces of Bengal, Behar and Orissa.

Exemption of the governor and council at Madras and the governor general of Fort William from the authority of the court.

3. Provided always that the governor and council at Madras and the governor general of Fort William aforesaid shall enjoy the same exemption and no other, from the authority of the said supreme court of judicature to be there erected, as is enjoyed by the said governor general and council at Port William aforesaid from the jurisdiction of the supreme court of judicature there already by law established.

4. [Rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also as to B. I. by XIV of 1870, s. 1 and sch.]

Transfer of power of recorder of Madras to supreme court.

5. * * *¹ all powers and authorities granted by the said Act of the thirty-seventh of his present Majesty to the said courts of the recorder at Madras * * *¹ shall and may be exercised by the supreme court of judicature to be erected by virtue of this Act, in the manner and to the extent herein before directed.

6. [Rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also as to B. I. by XIV of 1870, s. 1 and sch.]

Salaries to be in lieu of all perquisites.

7. And be it further enacted that * * * all such salaries shall be in lieu of all fees of office, perquisites, emoluments and advantages whatsoever; and that no fees of office, perquisites, emoluments or advantages whatsoever shall be accepted, received or taken in any manner or on any account or pretence whatsoever, other than such salaries and allowances as are in and by this Act directed to be paid.

¹ Words repealed by 55 & 56 Vict., c. 19 (S. L. R.), have been omitted.

(Secs. 9-12.)

8. [*Rep. as to B. I. by XIV of 1870, s. 1 and sch.*]

9. Provided always * * * that when either of the judges of the supreme court of judicature at Fort William, or of the supreme court of judicature which his Majesty is hereby empowered to erect at Madras, or the recorder of Bombay, shall respectively leave India, the salary now payable or which may become payable under and by virtue of this Act to any such judge or recorder respectively shall cease and be no longer paid, any thing herein or in any former Act or Acts contained to the contrary thereof in anywise notwithstanding.

The salaries of the judges of the supreme courts and of the recorder of Bombay to cease on their leaving India.

10 and 11. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.); rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

12.¹ And * * * if the governor general of Fort William in Bengal for the time being, or the governor of the said presidency of Fort Saint George and of the said presidency and island of Bombay respectively for the time being, shall happen to be absent from any council to be assembled for the said respective presidencies of Fort William and Fort Saint George and the said presidency and island of Bombay owing to indisposition or any other cause whatsoever, and shall signify such his intended absence to such council so to be assembled, then and in every such case the senior member for the time being, who shall be present at the council so assembled, shall preside at such council in such manner, and with such full powers and authorities during the time that such councils shall continue to be assembled, as such governor general or governor might or would have had in case such governor general or governor were himself actually present at such council:

If the governor general of Fort William or the governor of Fort St. George or of Bombay shall signify his intended absence from the council, the senior member present shall preside; but no act of such council shall be valid, unless signed by the governor general or governor respectively, if resident at the presidency and not prevented by indisposition; and if not so prevented, and he shall refuse to sign, he and the members who shall have signed shall mutually communicate the grounds of their

Provided nevertheless that no act of any council so held shall be valid to any effect whatsoever unless the same shall be signed by such governor general or governor respectively, if such governor general or governor shall at the time be resident at the presidency at which such council shall be so assembled, and shall not be prevented by such indisposition from signing the same:

Provided always, that in case such governor general or governor, not being so prevented as aforesaid, shall decline or refuse to sign such act of council he and the several members of the council who shall have signed the same shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner, and subject to such regulations and ultimate responsibility of such governor general or governor respectively, as are by the said Act passed in the thirty-third year

¹ Section 12, in so far as it relates to the governor general and the council of Fort William has been repealed by 55 & 56 Vict., c. 19 (S. L. R.).

Preamble.

directed by 33 Geo. 3, c. 52, in cases where he shall, when present, dissent from the council. The governor general, when absent, may nominate a vice-president and deputy governor of Fort William.

of the reign of his present Majesty provided and directed, in cases where such governor general or governor respectively shall, when present, dissent from any measure proposed or agitated in such council respectively:

Provided also, that nothing herein contained shall be taken or construed to prevent such governor general, in case he shall be absent from his own government of Bengal, to nominate a vice-president and deputy governor of Fort William according to the provision for that purpose in the said Act passed in the thirty-third year of his present Majesty.

13 to 16. [*Rep. 9 Geo. 4, c. 74, s. 126.*]

17 to 19. [*Rep. 55 & 56 Vict., c. 19 (S. I. R.); Rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

The power of the supreme court of judicature of Fort William shall extend over the province of Benares and all places subordinate thereto, and all districts hereafter annexed to the presidency of Fort William.

20. * * * * * the power and authority of the said supreme court of judicature in and for the said presidency of Fort William aforesaid, as now and by virtue of this Act established, and all such regulations as have been or may be hereafter, according to the powers and authorities, and subject to the provisions and restrictions before enacted, framed and provided, shall extend to and over the said province or district of Benares, and to and over all the factories, districts and places, which now are or hereafter shall be made subordinate thereto, and to and over all such provinces and districts as may at any time hereafter be annexed and made subject to the said presidency of Fort William aforesaid.

21 to 24. [*Rep. 55 & 56 Vict., c. 19 (S. I. R.); Rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

25. [*Rep. 57 & 58 Vict., c. 39, s. 5.*]

THE CRIMINAL JURISDICTION ACT, 1802.¹

(42 Geo. 3, c. 85.)

An Act for the trying and punishing in Great Britain Persons holding public Employments, for Offences committed abroad; and for extending the Provisions of an Act passed in the Twenty-first Year of the Reign of King James, made for the ease of Justices and others in pleading in Suits brought against them, to all Persons, either in or out of this Kingdom, authorized to commit to safe custody. [22nd June, 1802.]

WHEREAS persons holding and exercising public employments out of Great Britain often escape punishment for offences committed by them for want of

¹ As to this Act, see *Taylor on Evidence*, Ed. 9, §§ 500 and 1324.

(Preamble.)

courts having a sufficient jurisdiction in or by reason of their departing from the country or place where such offences have been committed, and that such persons cannot be tried in Great Britain for such offences as the law now stands, inasmuch as such offences cannot be laid to have been committed within the body of any county;

and whereas it is therefore expedient that such and the like provisions as are contained in an Act passed in the eleventh and twelfth years of the reign of his late Majesty King William the Third, intituled "An Act to punish governors of plantations of this kingdom for crimes by them committed in the plantations," and in an Act passed in the thirteenth year of the reign of his present Majesty, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," and in an Act passed in the twenty-fourth year of the reign of His present Majesty, intituled "An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a court of judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies," should be extended and applied to the punishment of such offenders:

May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that, from and after the passing of this Act, if any person who now is, or heretofore has been, or shall hereafter, be employed by or in the service of his Majesty, his heirs or successors, in any civil or military station, office, or capacity out of Great Britain, or shall heretofore have had, held, or exercised, or now has, holds, or exercises, or shall hereafter have, hold, or exercise any public station, office, capacity, or employment, out of Great Britain, shall have committed, or shall commit, or shall have heretofore been, or is, or shall hereafter be guilty of any crime, misdemeanor, or offence, in the execution, or under colour, or in the exercise of any such station, office, capacity, or employment as aforesaid, every such crime, offence, or misdemeanor may be prosecuted or enquired of, any heard and determined in his Majesty's Court of King's Bench¹ here in England, either upon an information exhibited by his Majesty's attorney general, or upon an indictment found, in which information or indictment such crime, offence, or misdemeanor may be laid and charged to have been committed in the county of Middlesex;

Offences committed by persons employed in any public service abroad may be prosecuted in the Court of King's Bench in England; and may be laid in Middlesex, and the offenders punished as if the offences had been committed in England.

¹ As to Merger of Court of King's Bench with Supreme Court, see Supreme Court of Judicature Act, 1873 (36 & 37 Vict., c. 66), s. 16.

(Sec. 2.)

and all such persons so offending and also all persons tried under any of the provisions of the said recited Act passed in the reign of King William aforesaid, or this Act, or either of them, for any offence, crime, or misdemeanor, and not having been before tried for the same out of Great Britain, shall, on conviction, be liable to such punishment as may, by any law or laws now in force, or any Act or Acts that may hereafter be passed, be inflicted for any such crime, misdemeanor or offence committed in England, and shall also be liable at the discretion of his Majesty's Court of King's Bench, to be adjudged to be incapable of serving his Majesty in any station, office, or capacity, civil or military, or of holding or exercising any public employment whatever.

The Court of King's Bench, on motion, may award a writ of mandamus to any court of judicature, or the governor, etc., of the country where the offence was committed, to obtain proofs of the matters charged in the indictment; which shall be obtained by *vivâ voce* evidence, and the same shall be transmitted to the Court of King's Bench, and admitted on the trial, etc.

2. And * * * * in all cases of indictments found or informations exhibited under and by virtue of this Act, it shall be lawful for his Majesty's said Court of King's Bench, upon motion to be made and such notice thereof as to the said Court of King's Bench may appear to be sufficient, by or on behalf of his Majesty's attorney general or other prosecutor, or of the defendant or defendants, to award, at the discretion of the said court, a writ or writs of mandamus to any chief justice and judges or any chief justice or other judge singly for the time being, of any court or courts of judicature in the country or island, or near to the place where the crime, offence, or misdemeanor shall be charged in such indictment or information to have been committed, or to any governor or lieutenant governor or other person having any chief authority in such country, island, or place, or to any other person or persons residing there, as the case may require, and as to the said Court of King's Bench may, under all the circumstances of the case, seem most expedient for the purpose of obtaining and receiving proofs concerning the matters charged in any such indictment or information;

and the person or persons to whom such writ or writs shall be directed and sent are hereby respectively authorized and required to hold a court, session, or meeting, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such indictment or information respectively, and in the meantime to cause public notice to be given of the holding the said court, session, or meeting, and to issue such summons or other process as may be requisite for the attendance of witnesses, and to adjourn from time to time as occasion may require;

and such examination or examinations shall be then and there openly and publicly taken *vivâ voce* in the said court, session or meeting upon questions put by any such prosecutor or prosecutors, defendant or defendants, or any agent or agents, person or persons, on behalf of the said attorney general or other

(Sec. 3.)

prosecutor or prosecutors, and defendant or defendants respectively, if any such shall attend for that purpose, and by the Court, person or persons to whom such writ shall be directed and sent as aforesaid, upon the respective oaths of witnesses, and the oaths of skilful interpreters if necessary, administered according to the forms of their several religions, and shall, by some officer or persons sworn for that purpose, be reduced into writing on parchment or paper and in case any duplicate or duplicates shall be required by or on behalf of the prosecutor or the defendant or defendants respectively into two or more writings on parchment or paper as the case may require;

and such examination or examinations shall be sent to his Majesty in his Court of King's Bench closed up and under the seal or seals of the person or persons before whom such examination or examinations as aforesaid shall have been taken;

and the person or persons taking such examination or examinations as aforesaid shall deliver the same to any person or persons appointed by the said Court of King's Bench to receive the same or shall transmit the same in such manner as the said Court of King's Bench shall direct;

and all such examinations shall with all convenient speed be delivered to one of the clerks in court of his Majesty's Court of King's Bench in the Crown office of the said court for the safe custody thereof;

and every clerk in the said Court of King's Bench to whom any examination or examinations shall be delivered is hereby authorized to administer an oath to the person delivering the same to him in such form as the said Court of King's Bench shall direct;

and such examination or examinations shall be allowed and read upon the trial of any such indictment or information or any other subsequent proceeding thereon or relating thereto and shall be deemed as good and competent evidence as if the witness or witnesses whose examination or examinations shall be so read had been present and sworn and examined *vivâ voce* at such trial, any law or usage to the contrary notwithstanding, saving all just exceptions to be taken to any such examination or examinations or any part thereof when the same shall be offered to be read as aforesaid;

and all persons concerned shall be entitled to take copies of such examinations in the custody of such clerk in court at their own costs and charges.

3. And * * * * it shall also be lawful for the said Court of King's Bench upon motion to be made and such notice thereof as aforesaid by or on behalf of his Majesty's attorney general or other prosecutor or defendant or defendants in any such indictment or information to order an examination *de bene esse* of witnesses upon interrogatories in any case where the *vivâ voce* evidence

Court of King's Bench may order an examination *de bene esse*, in case where *vivâ voce* evidence

(Secs. 4-5.)

cannot be
had.

voice testimony of such witnesses cannot conveniently be had to be taken before an examiner to be appointed by the said court;

and the depositions taken upon such interrogatories shall be afterwards admitted to be read in evidence upon the trial of such indictment or information or in any other subsequent proceeding thereon or relating thereto and shall be deemed good and sufficient evidence in the law saving all just exceptions to be taken to such depositions when the same shall be offered to be read as aforesaid.

Persons to
whom such
writs of man-
damus shall
be directed,
shall do all
things neces-
sary for the
due execution
thereof by
compelling
the appear-
ance and
giving evi-
dence of wit-
nesses, etc.

4. And * * * * it shall be lawful for any person or persons to whom any such writ or writs of mandamus shall be directed or order sent as aforesaid, and, in case the same shall be directed or sent to more than one person, for so many of them as shall for that purpose be appointed by the said writ or required by the said order, and who shall act in the execution thereof, and such person and persons is and are hereby respectively authorized and required to administer all oaths required to be taken under any of the provisions of this Act, or necessary for the due execution of any such writ or order or any act, matter, or thing relating thereto, and to examine upon oath all persons whom he or they find occasion to summon, and all other persons whom he or they shall think fit to examine, touching all matters and things necessary for the due execution of any such writ or order as aforesaid;

and such person and persons respectively to whom such writ shall be directed or order sent as aforesaid, or so many of them as shall in that behalf be appointed and shall act in the execution thereof as aforesaid, shall have full power and authority to compel the appearance and giving evidence of any witness upon any such writ or order, and to issue special summons or other process for that purpose, and may proceed upon such summons or other process, by imprisonment of the body of any person refusing to appear or give evidence, in like manner as any court or courts of record within this kingdom, having competent authority for that purpose, may proceed against any person or persons for any contempt committed against the authority of any such court.

Persons
giving false
evidence shall
be subject
to the pains
inflicted f
perjury. or

5. And * * * in case any person or persons in the course of his, her, or their examination upon oath, under and by virtue of the said recited Act of the twenty-fourth year of his present Majesty, or this Act, shall wilfully and corruptly give false evidence, such person or persons so offending and being thereof duly convicted, shall be, and is and are hereby declared to be, subject and liable to such pains and penalties as persons guilty of wilful and corrupt perjury shall be liable to by any law or laws then in force in the kingdom, island, or place where such false evidence shall have been given as aforesaid.

Preamble.

6. * * * * * Where any
 * * * where any action, bill, plaint, or suit upon the case, trespass, action shall be
 battery or false imprisonment shall be brought against any such person as is brought for
 in this Act described as aforesaid, in this kingdom, for or upon any act, matter, anything done
 or thing done out of this kingdom, it shall be lawful for the plaintiff bringing out of this
 the same to lay such act, matter, or thing, to have been done in Westminster, kingdom, it
 or in any county where the person against whom any such action, bill, may be laid in
 plaint, or suit, shall be brought shall then reside, anything in this Act to Westminster,
 the contrary thereof notwithstanding. [Part omitted repealed as to U. K. 55 or in any
 § 56 Vict., c. 61, s. 2; whole rep. as to B. I. by XII of 1873, S. I. and county where
 sch.] the defendant shall reside.

THE SALE OF OFFICES ACT, 1809.¹

(49 Geo. 3, c. 126.)

An Act for the further Prevention of the Sale and Brokerage of Offices.

[20th June, 1809.]

WHEREAS an Act passed in the fifth and sixth year of the reign of King 5 & 6 Ed.
 Edward the Sixth, intituled "Against buying and selling of offices:" 6, c. 16.

And whereas it was in and by the said Act enacted, amongst other things, that if any person or persons at any time thereafter bargained or sold any office or offices or deputation of any office or offices, or any part or parcel of any of them or received, had or took any money, fee, reward, or any other profit, directly or indirectly or took any promise, agreement, covenant, bond, or any assurance to receive or have any money, fee, reward or other profit, directly or indirectly, for any office or offices or for the deputation of any office or offices, or any part of any of them, or to the intent that any person should have exercised or enjoy any office or offices, or the deputation of any office or offices, or any part of any of them, which office or offices, or any part or parcel of them, should in anywise touch or concern the administration or execution of justice, or the receipt, controlment or payment of any of the King's Highness treasure, money, rent, revenue, account, aulnage, auditorship, or surveying of any of the King's Majesty's honors, castles, manors, lands, tenements, woods, or hereditaments or any of the King's Majesty's customs, or any other administration or necessary attendance to be had, done or executed in any of the King's Majesty's custom house or houses, or the keeping of any of the King's Majesty's towns, castle, or fortresses, being used, occupied, or appointed for places of

¹ For indemnity to witnesses against proceedings under this Act, see Act XIV of 1889. See too, *Chitty's Statutes*, Tit., "Office."

(Preamble.)

strength and defence, or which should concern or touch any clerkship to be occupied in any manner of court of record wherein justice was to be ministered that, then all and every such person and persons that should so bargain or sell any of the said office or offices, deputation or deputations, or that should take any money, fee, reward or profit for any of the said office, or offices, deputation or deputations of any of the said offices, or any part of any of them, or that should take any promise, covenant, bond, or assurance for any money, reward, or profit to be given for any of the said office or offices, deputation or deputations, of any of the said office or offices or any part of any of them, should not only lose and forfeit all his and their right, interest, and estate which such person or persons should then have of, in, or to any of the said office or offices, deputation or deputations, or any part of any of them, or of, in, or to the gift or nomination of any of the said office or offices, deputation or deputations, for the which office or offices, or for the deputation or deputations, of which offices or for any part of any of them any such person or persons should so make any bargain or sale, or take or receive any sum of money, fee, reward or profit or any promise, covenant, or assurance to have or receive any fee, reward, money, or profit, but also that all and every such person or persons that should give or pay any sum of money, reward, or fee, or should make any promise, agreements, bond, or assurance for any of the said offices, or for the deputation or deputations of any of the said office or offices, or any part of any of them, should immediately by and upon the same, fee, money, or reward given or paid, or upon any such promise, covenant, bond, or agreement had or made for any fee, sum of money or reward to be paid as is aforesaid, be adjudged a disabled person in the law to all intents and purposes, to have, occupy, or enjoy the said office or offices, deputation or deputations or any part of any of them for the which such person or persons should so give or pay any sum of money, fee or reward, or make any promise, covenant, bond, or other assurance to give or pay any sum of money, fee, or reward; and that all and every such bargains, sales, promises, bonds, agreements, covenants, and assurances as before specified should be void to and against him and them by whom any such bargain, sale, bond, promise, covenant, or assurance should be had or made;

and whereas it was in the said Act provided, that the said Act or anything therein contained should not in anywise extend to any office or offices whereof any person or persons was or should be seised of any estate of inheritance nor to any office of parkership, or of the keeping of any park, house, manor, garden, chase, or forest, or to any of them;

and whereas it was by the said Act further provided, that if any person or persons did thereafter offend in anything contrary to the tenor and effect of the said Act, yet that notwithstanding all judgments given and all other act

(Preamble.)

and acts executed or done by any such person or persons so offending by authority or colour of the office or deputation which ought to be forfeited or not occupied or not enjoyed by the person so offending, after the said offence so by such person committed or done, and before such person so offending for the same offence should be removed from the exercise, administration and occupation of the said office or deputation, should be and remain good and sufficient in law to all intents, constructions, and purposes in such like manner and form as the same would or ought to have remained and been if this Act had never been had or made;

and whereas it was by the said Act further provided, that the said Act, or anything therein contained, should not in anywise extend or be prejudicial or hurtful to any of the chief justices of the King's courts commonly called the King's Bench or Common Place, or to any of the justices of assize, that then were or thereafter should be, but that they and every of them might do in every behalf touching or concerning any office or offices to be given or granted by them or any of them, as they or any of them might have done before the making of the said Act;

Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act the said Act, and all the provisions therein contained shall extend and be construed to extend to Scotland and Ireland, and to all offices in the gift of the crown or of any office appointed by the crown, and all commissions, civil, naval or military, and to all places and employments and to all deputations to any such offices, commissions, places, or employments, in the respective departments or offices or under the appointment or superintendence and controul of the lord high treasurer or commissioners of the Treasury, the secretary of state, the lords commissioners for executing the office of lord high admiral, the commander in chief, and also the principal officers of any other public department or office of his Majesty's government in any part of the United Kingdom, or in any of his Majesty's dominions, colonies, or plantations which now belong or may hereafter belong to his Majesty, and also to all offices, commissions, places, and employments belonging to or under the appointment or controul of the United Company of Merchants of England trading to the East Indies, in as full and ample a manner as if the provisions of the said Act were repeated as to all such offices, commissions, places, and employments, and made part of this Act;

*Provisions of
recited Act
extended to
other offices.*

and the said Act and this Act and all the clauses and provisions therein respectively contained shall be construed as one Act, as if the same had been herein repeated and re-enacted.

(Secs. 2-4.)

When right
forfeited, ap-
pointment to
go to his
Majesty.

2. Provided always * * * * that where the right, estate, or interest of any person or persons shall be forfeited under any of the provisions of the said Act, or this Act, the right of such appointment shall immediately vest in and belong to his Majesty, his heirs and successors.

Persons buy-
ing or selling
offices, or re-
ceiving or
paying money
or rewards for
offices, guilty
of a misde-
meanor.

3. And * * * * from and after the passing of this Act, if any person or persons shall sell or bargain for the sale of, or receive, have, or take any money, fee, gratuity, loan of money, reward, or profit, directly or indirectly, or any promise, agreement, covenant, contract, bond or assurance, or shall by any way device, or means contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, and also if any person or persons shall purchase or bargain for the purchase of, or give or pay any money, fee, gratuity, loan of money, reward or profit, or make or enter into any promise, agreement, covenant, contract, bond or assurance to give or pay any money, fee, gratuity, loan of money, reward, or profit or shall by any way, means, or device contract or agree to give or pay any money, fee gratuity, loan of money, reward or profit, directly or indirectly, for any office, commission, place, or employment specified or described in the said recited Act or this Act, or within the true intent or meaning of the said Act or this Act, or for any denutation thereto, or for any part, parcel, or participation of the profits thereof, or for any appointment or nomination thereto or resignation thereof, or for the consent or consents, or voice or voices of any person or persons to any such appointment, nomination, or resignation, then and in every such case every such person and also every person who shall wilfully and knowingly aid, abet or assist such person therein shall be deemed and adjudged guilty of a misdemeanor.

Persons
receiving
or paying
money for
soliciting
offices, or for
any negocia-
tions or
pretended
negociations
relating there-
to, guilty
of a mis-
demeanor.

4. And * * * * from and after the passing of this Act, if any person or persons shall receive, have or take any money, fee, reward, or profit, directly or indirectly, or take any promise, agreement, covenant, contract, bond, or assurance, or by any way, means, or device contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any interest, solicitation, petition, request, recommendation, or negotiation whatever made or to be made or pretended to be made, or under any pretence of making or causing or procuring to be made any interest, solicitation, petition, request, recommendation, or negotiation in or about or in anywise touching, concerning, or relating to any nomination, appointment, or deputation to or resignation of any such office, commission, place, or employment as aforesaid, or under any pretence for using or having used any interest, solicitation, petition, request, recommendation, or negotiation in or about any such nomination, appointment, deputation or resignation, or for the obtaining,

(Sec. 5.)

or having obtained the consent or consents or voice or voices of any person or persons as aforesaid to such nomination, appointment, deputation, or resignation ;

and also if any person or persons shall give or pay or cause or procure to be given or paid any money, fee, gratuity, loan of money, reward, or profit, or make or cause or procure to be made any promise, agreement, covenant, contract, bond, or assurance or by any way, means, or device contract or agree or give or pay or cause or procure to be given or paid any money, fee, gratuity, loan of money, reward, or profit for any solicitation, petition, request, recommendation, or negociation whatever, made or to be made that shall in anywise touch, concern, or relate to any nomination, appointment, or deputation to or resignation of any such office, commission, place, or employment as aforesaid, or for the obtaining or having obtained, directly or indirectly, the consent or consents or voice or voices of any person or persons as aforesaid to any such nomination, appointment, deputation, or resignation ;

and also if any person or persons shall for or in expectation of gain, fee, gratuity, loan of money, reward, or profit solicit, recommend, or negotiate in any manner for any person or persons in any matter that shall in anywise touch, concern, or relate to any such nomination, appointment, deputation, or resignation aforesaid, or for the obtaining, directly or indirectly, the consent or consents, or voice or voices of any person or persons to any such nomination, appointment, or deputation, or resignation aforesaid ;

then and in every such case every such person and also every person who shall wilfully and knowingly aid, abet, or assist such person therein shall be deemed and adjudged guilty of a misdemeanor.

5. And whereas on the pretence of negotiating or soliciting the sale, transfer, or appointment of any office or offices which under the exception of this Act or otherwise it may be lawful to sell, offices for negotiating the same and advertisements may be published by means and under the colour of which illegal transactions intended to be prohibited by this Act may be carried on :

Be it therefore further enacted, that from and after the passing of this Act if any person or persons shall open or keep any house, room, office, or place for the soliciting, transacting, or negotiating in any manner whatever any business relating to vacancies, in or the sale or purchase of, or appointment, nomination, or deputation to, or resignation, transfer, or exchange of any offices, commissions, places or employments whatever in or under any public department, then and in every such case every such person, and also every person who shall wilfully and knowingly aid, abet, or assist therein shall be deemed and adjudged guilty of a misdemeanor.

Persons opening or advertising houses for transacting business relating to the sale of offices, guilty of a misdemeanor.

(Secs. 6-11.)

Penalty on persons advertising such houses, or the names of brokers or agents.

6. And * * * * if any person or persons shall advertise or publish or cause or procure to be advertised, or in any manner published any house, room, office, or place to have been or to be opened, set up, or kept for any of the purposes aforesaid, or advertise or publish or cause or procure to be advertised or published the name or names of any person or persons as broker or brokers, agent or agents, solicitor or solicitors for any of the purposes aforesaid, or print or cause or procure or permit or suffer to be printed or advertised any advertisement or advertisements, proposal or proposals for any of the purposes aforesaid,

then and in such case such person or persons shall forfeit for every such offence the sum of fifty pounds, to be sued for, levied or recovered in any of his Majesty's courts of record at Westminster as to all offences committed in England or at Dublin as to offences committed in Ireland or in his Majesty's courts in Scotland as to offences committed in Scotland respectively;

and the whole of every such penalty shall go to the person who shall sue for the same, with full costs of suit.

7 & 8. [*Rep. as to U. K. 35 & 36 Vict., c. 97 (S. I. R.) omitted as being obsolete and inapplicable to India.*]

Act not to extend to offices excepted in former Act, etc.

9. Provided always * * * * that nothing in this Act contained shall extend or be construed to extend to any office excepted from the provisions of the said Act passed in the sixth year of the reign of King Edward the Sixth against buying and selling of offices, or to any office which was legally saleable before the passing of this Act and in the gift of any person by virtue of any office of which such person is or shall be possessed under any patent or appointment for his life * * * *

Act not to extend to deputations where it is lawful to appoint deputies, or to agreements as to payment of principal or deputy out of the fees.

10. Provided also * * * * that nothing in this Act contained shall extend or be construed to extend to prevent or make void any deputation to any office in any case in which it is lawful to appoint a deputy, or any agreement, contract, bond, or assurance lawfully made in respect of any allowance, salary, or payment made or agreed to be made by or to such principal or deputy respectively out of the fees or profits of such office.

Act not to extend to annual payments out of the fees of any office to any former holder;

11. Provided also * * * * that nothing in the said Act or in this Act contained shall extend to any annual reservation, charge, or payment made or required to be made out of the fees, perquisites, or profits of any office to any person who shall have held such office in any commission or appointment of any person succeeding to such office, or to any agreement,

contract, bond, or other assurance made for securing such reservation, charge, or payment,

Provided always, that the amount of such reservation, charge, or payment and the circumstances and reasons under which the same shall have been permitted shall be stated in the commission, patent, warrant, or instrument of appointment of the person so succeeding to and holding such office and paying or securing such money as aforesaid.

Amount of and reasons for such payment to be stated.

12. [*Rep. as to U. K. 35 & 36 Vict., c. 97 (S. L. R.) Omitted as being unapplicable to India and also spent.*]

13. Provided always * * * * that every person who shall commit in Scotland any offence against this Act, which by the provisions of the same is constituted a misdemeanor, shall be liable to be punished by fine and imprisonment or by the one or the other of such punishments as the judge or judges before whom such offender shall be tried and convicted may direct.

Manner of punishing offenders in Scotland.

14. And * * * * all offences committed against the provisions of the said recited Act and this Act by any governor, lieutenant-governors or persons having the chief command, civil or military, in any of his Majesty's dominions, colonies, or plantations, or his or their secretary or secretaries, may and shall be prosecuted and enquired of and heard and determined in his Majesty's Court of King's Bench at Westminster in like manner as any crime, offence, or misdemeanor committed by any person holding a public employment abroad may be prosecuted and enquired of under the provisions of an Act passed in the forty-second year of the reign of his present Majesty, intituled "An Act for the trying and punishing in Great Britain persons holding public employments for offences committed abroad; and for extending the provisions of an Act passed in the twenty-first year of the reign of King James made for the ease of justices and others in pleading in suits brought against them to all persons, either in or out of this kingdom, authorized to commit to safe custody."

Offences committed abroad shall be tried in King's Bench,

under 42 Geo. 3, c. 74.

15. [*Rep. as to U. K. 35 & 36 Vict., c. 97 (S. L. R.) Commencement clause omitted as being spent.*]

THE EAST INDIA COMPANY BONDS ACT, 1811.¹

(51 Geo. 3, c. 64.)

An Act to enable the East India Company to raise a further Sum of Money upon Bonds, instead of increasing their Capital Stock; and to alter and

¹ As to this Act, see *Goodwin v. Roberts* (1875), L.R., 10 Ex. 337, at p. 354; also *Chalmers on Bills of Exchange*, Ed. 5, at p. 314.

(Sec. 4.)

amend an Act passed in the Forty-seventh Year of the reign of His present Majesty relative thereto.
[10th June, 1811.]

Preamble

1-3. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

Bonds issued
by the East
India Com-
pany under
their common
seal shall be
transferable
by delivery,
etc.

4. And whereas bonds issued under the common seal of the said united company for money borrowed by them by virtue of the powers enabling them to borrow money upon bond have usually been entered into and have been expressed to have been made payable to the person who for the time being has been the treasurer of the said united company, or his assigns, and upon his indorsement thereof they have been sold and passed from one person to another by delivery of the possession thereof ;

and it is expedient that a legal effect should be given to such mode of transfer of the property in the said bonds and the money secured thereby :

Be it therefore further enacted that all bonds issued or to be issued under the common seal of the said united company by virtue of any power by which they have been, are, or hereafter may be authorized to borrow money upon their bonds shall be assignable and transferable by delivery of the possession thereof ;

and upon every such assignment or transfer the money secured by the bond so assigned or transferred and due and to become due thereon, and the property in such bond, shall be absolutely vested as well at law as in equity in the person or persons, body or bodies politic and corporate to whom the same shall be so assigned or transferred, and the person or persons, body or bodies politic and corporate to whom any such bond shall be so assigned and transferred and his, her, and their executors, administrators, and successors respectively, shall and may maintain his, her, or their action for the principal and interest secured thereby and due thereon, or otherwise relating thereto, in like manner as the obligee or obligees named in any such bond, or his, her, or their executors, administrators, or successors may now maintain any action thereon ;

and in every such action the plaintiff or plaintiffs shall recover his, her, or their debt, damages, and costs of suit ; and if any such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs ;

and every such plaintiff or plaintiffs, defendant or defendants respectively recovering may sue out execution for such debt, damages, and costs by *capias*, *fiери facias*, or *elegit*.

5. * * * * * this Act shall be deemed and taken Public Act. to be a public Act, and shall be judicially taken notice of as such by all Judges, Justices and others, without being specially pleaded.¹

THE PRISONERS OF WAR (ESCAPE) ACT, 1812.

(52 Geo. 3, c. 156.)

An Act for the more effectual Punishment of Persons aiding Prisoners of War to escape from His Majesty's Dominions.

[29th July, 1812.]

WHEREAS many prisoners of war confined and on parole in different parts of his Majesty's dominions have of late escaped by the aid and assistance of many of his Majesty's subjects and others;

and it is necessary to repress such practices and violations of the allegiance due to his Majesty and of the law by more effectual punishment:

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that every person who shall from and after the passing of this Act knowingly and wilfully aid or assist any alien enemy of his Majesty, being a prisoner of war in his Majesty's dominions, whether such prisoner shall be confined as a prisoner of war in any prison or other place of confinement, or shall be suffered to be at large in his Majesty's dominions or any part thereof on his parole, to escape from such prison or other place of confinement, or from his Majesty's dominions, if at large upon parole, shall upon being convicted thereof be adjudged guilty of felony, and be liable to be transported as a felon for life, or for such term of fourteen or seven years as the court before whom such person shall be convicted shall adjudge.

Punishment of person aiding prisoners of war to escape.

2. Provided always * * * * * that every person who shall knowingly and wilfully aid or assist any such prisoner at large on parole in quitting any part of his Majesty's dominions where he may be on his parole, although he shall not aid or assist such person in quitting the coast of any part of his Majesty's dominions, shall be deemed guilty of aiding the escape of such person under the provisions of this Act.

Persons guilty of aiding though they do not assist the prisoner in quitting the coast.

3. And * * * * * if any person or persons owing allegiance to his Majesty, after any such prisoner as aforesaid hath quitted the coast of any

Punishment of persons assisting on

¹ S. 5 was repealed as to the United Kingdom by 50 & 51 Vict., c. 59 (S. W. R.). It may be a question whether, with reference to s. 57 (2) of this Indian Evidence Act, 1972 (1 of 1872), it ought not to be retained in the Indian Statute-book.

(Preamble.)

the high seas
prisoners to
escape.

part of his Majesty's dominions in such his escape as aforesaid, shall knowingly and wilfully upon the high seas aid or assist such prisoner in his escape to or towards any other dominions or place, such person shall also be adjudged guilty of felony, and be liable to be transported as aforesaid;

and such offences committed upon the high seas and not within the body of any county, shall and may be enquired of, tried, heard, determined, and adjudged in any county within the realm, in like manner as if such offences had been committed within such county.

Offenders may
be tried
otherwise
than under
the provisions
of this Act;
but not in
both ways.

4. And * * * * this Act shall not be deemed or taken to prevent any person committing any offence mentioned in this Act from being prosecuted in such manner as he might by law have been prosecuted if this Act had not passed;

but nevertheless no person prosecuted otherwise than under the provisions of this Act shall be liable to be prosecuted for the same offence under the provisions hereof;

and no person prosecuted under the provisions of this Act shall for the same offence be liable to be otherwise prosecuted.

THE EAST INDIA COMPANY ACT, 1813.¹

(53 Geo. 3, c. 155.)

An Act for continuing in The East India Company for a further Term the Possession of the British Territories in India, together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same, and for regulating the Trade to and from the Places within the Limits of the said Company's Charter.

[21st July, 1813.]

33 Geo. 3,
c. 52.

WHEREAS by an Act of the Parliament of Great Britain passed in the thirty-third year of his present Majesty's reign for continuing in the East India company for a further term the possession of the British territories in India, together with their exclusive trade, under certain limitations, and for other purposes, the possession and government of the British territories in India, together with an exclusive trade in, to, and from the East Indies, and other the limits described in an Act made in the ninth year of the reign of King William the Third, or in a certain charter of the fifth day of September in the tenth year of the same King, were continued in the united company of

9 Will. 3.
c. 44.

¹ For digest and notes, see Ilbert's *Government of India*, pp. 295-297.

merchants of England trading to the East Indies, for a term thereby limited, under certain regulation and conditions:

and whereas by an Act of the Parliament of Ireland passed in the same ^{33 Geo. 3,} thirty-third year of his present Majesty's reign for regulating the trade of _{c. 31. (1.)} Ireland to and from the East Indies, under certain conditions and provisions for a time therein mentioned the exclusive privileges granted to the said united company by the said Act of the Parliament of Great Britain were confirmed, subject to certain conditions and restrictions:

and whereas it is expedient that the territorial acquisitions mentioned in the said Act of the Parliament of Great Britain of the thirty-third year of his present Majesty together with such other territorial acquisitions on the continent of Asia, or in any island situate to the north of the Equator, as are now in the possession and under the government of the said united company with the revenues thereof, should, without prejudice to the undoubted sovereignty of the Crown of the United Kingdom of Great Britain and Ireland in and over the same, or to any claim of the said united company to any rights, franchises, or immunities, remain in the possession and under the government of the said united company for a further term; subject to such powers and authorities for the superintendence, direction, and controul over all acts, operations, and concerns which relate to the civil or military government or revenues of the said territories, and to such further or other powers, authorities, rules regulations, and restrictions as have been already made or provided by any Act or Acts of Parliament in that behalf, or are made and provided by this Act:

and whereas it is expedient that, from and after the tenth day of April one thousand eight hundred and fourteen, the right of trading, trafficking, and adventuring in, to, and from all ports and places within the limits of the said united company's present charter, save and except the dominions of the Emperor of China, should be open to all his Majesty's subjects in common with the said united company, subject to certain regulations and provisions; but that the existing restraints respecting the commercial intercourse with China should be continued, and the exclusive trade in tea preserved to the said company during the further term hereby limited:¹

*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*

¹ The preamble has not been repealed and is set forth in full in the Statutes Revised.

(Secs. 42-43.)

*	*	7	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*
*	*	*	*	*	*

1 to 32. [*Rep. 36 & 37 Vict. c. 91 (S. L. R.).*]33 to 39. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]40 and 41. [*Rep. 56 & 57 Vict., c. 91 (S. L. R.).*]

Colleges and
seminaries of
the company
to be subject
to the controul
of the India
board.

42. And * * * the said board of commissioners for the affairs of India, by force and virtue of this Act, shall have and be invested with full power and authority to superintend, direct, and controul all orders and instructions whatsoever which in anywise relate to or concern any rules, regulations, or establishments whatsoever of the several colleges established by the said company at Calcutta or Fort St. George, or of any seminaries which may be established under the authority of any of the governments of the said company, in the same manner, to all intents and purposes, and under and subject to all such and the like regulations and provisions, as if such orders and instructions immediately related to and concerned the government and revenues of the said territorial acquisitions in the East Indies.

Schools, public
lectures, etc.,
for the benefit
of the natives,
to be provided
and regulated
by governor
general in
council, sub-
ject to con-
troul of the
board; but
appointments
to offices
therein to be
made by the
local gov-
ernments.

43. And * * * it shall be lawful for the governor general in council to direct that out of any surplus which may remain of the rents, revenues, and profits arising from the said territorial acquisitions, after defraying the expenses of the military, civil, and commercial establishments, and paying the interest of the debt, in manner herein-after provided, a sum of not less than one lac of rupees in each year shall be set apart and applied to the revival and improvement of literature, and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories in India;

and that any schools, public lectures, or other institutions, for the purposes aforesaid, which shall be founded at the presidencies of Fort William, Fort Saint George, or Bombay, or in any other parts of the British territories in India, in virtue of this Act shall be governed by such regulations as may from time to time be made by the said governor general in council; subject nevertheless to such powers as are herein vested in the said board of commissioners for the affairs of India, respecting colleges and seminaries:

(Secs. 49-50.)

Provided always, that all appointments to offices in such schools, lecture-ships, and other institutions, shall be made by or under the authority of the governments within which the same shall be situated.

44 to 48. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

49. And whereas no sufficient provision hath hitherto been made for the maintenance and support of a church establishment in the British territories in the East Indies and other parts within the limits of the said company's charter :

Be it therefore enacted, that in case it shall please his Majesty, by his royal letters patent under the great seal of the said United Kingdom, to erect, found, and constitute one bishoprick for the whole of the said British territories in the East Indies, and parts aforesaid, one archdeaconry for the presidency of Fort William in Bengal, one archdeaconry for the presidency of Fort Saint George on the coast of Coromandel, and one archdeaconry for the presidency and island of Bombay on the coast of Malabar, and from time to time to nominate and appoint a bishop and archdeacons to such bishoprick and archdeaconries respectively, the court of directors of the said company during such time as the said territorial acquisitions shall remain in the possession of the said company shall and they are hereby required to direct and cause to be paid certain established salaries to such bishop and archdeacons respectively ; (that is to say,)

If a bishop and three archdeacons shall be established in India by his Majesty's letters patent,

their salaries shall be paid by the company.

from and out of the revenues of the said presidency of Fort William in Bengal to the said bishop, five thousand pounds by the year, at an exchange of two shillings for the Bengal current rupee ;

and to the said archdeacon of the said presidency of Fort William, two thousand pounds by the year, at the like exchange ;

and from and out of the revenues of the presidency of Fort Saint George on the coast of Coromandel, to the archdeacon of the said presidency of Fort Saint George, two thousand pounds by the year, at an exchange of eight shillings for the pagoda at Madras ;

and from and out of the revenues of the presidency and island of Bombay, on the coast of Malabar, to the archdeacon of the said presidency and island of Bombay, two thousand pounds by the year, at an exchange of two shillings and three pence for the Bombay rupee.

50. And * * * * * the said salaries shall take place and commence from and after the time at which such persons as shall be appointed to the said offices respectively shall take upon them the execution of their respective offices :

Salaries to commence on taking office, and to cease when functions cease, etc.

(Secs. 51-54.)

and all such salaries shall be in lieu of all fees of office, perquisites, emoluments, and advantages whatsoever;

and no fees of office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken in any manner or on any account or pretence whatsoever, other than the salaries aforesaid;

and such bishop and archdeacons respectively shall be entitled to such salaries so long as they shall respectively exercise the functions of their several offices in the East Indies, or parts aforesaid, and no longer.

Bishop to have no jurisdiction or functions, except such as may be limited by letters patent.

51. Provided always * * * * that such bishop shall not have or use any jurisdiction, or exercise any episcopal functions whatsoever, either in the East Indies or elsewhere, but only such jurisdictions and functions as shall or may, from time to time, be limited to him by his Majesty by letters patent under the great seal of the United Kingdom.

His Majesty may grant to the bishop by letters patent such ecclesiastical jurisdiction as he may think necessary.

52. And * * * * it shall and may be lawful for his Majesty from time to time, if he shall think fit, by his letters patent under the great seal of the said United Kingdom, to grant to such bishop so to be nominated and appointed as aforesaid such ecclesiastical jurisdiction, and the exercise of such episcopal functions, within the East Indies and parts aforesaid, as his Majesty shall think necessary for the administering holy ceremonies, and for the superintendence and good government of the ministers of the church establishment, within the East Indies and parts aforesaid, any law, charter, or other matter or thing to the contrary notwithstanding.

Warrant for letters patent to be countersigned by the president of the board.

53. And * * * * when and as often as it shall please his Majesty to issue any letters patent respecting any such bishoprick or archdeaconry as aforesaid, or for the nomination or appointment of any person thereto, the warrant for the bill in every such case shall be countersigned by the president of the board of commissioners for the affairs of India.

His Majesty may grant pensions to bishops and archdeacons who have discharged their functions in India for fifteen years.

54. And * * * * it shall and may be lawful for his Majesty, by warrant under his royal sign manual, countersigned by the chancellor of the exchequer for the time being, to grant to any such bishop and archdeacons respectively, who shall have exercised in the East Indies or parts aforesaid for fifteen years the office or offices of bishop or archdeacon or either of them, the following pensions; that is to say, to any such bishop, a pension not exceeding fifteen hundred pounds per annum, and to any such archdeacon, a pension not exceeding eight hundred pounds per annum; which said pension shall be deemed and taken as part of the political charges of the said company.

(Secs. 79-82.)

55 to 78. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

79. And whereas by the said Act of the Parliament of Great Britain of the thirty-third year of his Majesty's reign, it is enacted, that the several orders and proceedings of the presidencies of Fort William, Fort Saint George, and Bombay, should, previously to their being published and put in execution, be signed by the chief secretary¹ to the council of the presidency, by the authority of the governor general in council, or governors in council, as the case may be:

and whereas inconvenience may arise to the public service, unless some other person, besides such chief secretary, be authorized to sign such orders and Proceedings:

Be it therefore further enacted, that all such orders and proceedings of the several governments and presidencies in the East Indies and parts aforesaid shall or may, previously to their being published or put in execution, be signed in manner aforesaid, either by the chief secretary¹ to the government of the said presidency, or in the absence of such chief secretary¹ by the principal secretary of the department of such presidency to which such orders and proceedings relate, anything to the contrary notwithstanding.

Proceedings at the presidencies to be signed by the principal secretary of the department in the absence of the chief secretary.

80 & 81 [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

82. And whereas a strict adherence to the provisions contained in the said Act made in the thirty-third year of his present Majesty's reign, in respect to the filling up and supplying vacancies in the civil service of the said company, has been found impracticable, without detriment to the public service, or injury to the just claims and meritorious exertions of individuals:

And whereas a modification of the said Act has been in part adopted in the Act of the forty-seventh of his present Majesty, relative to the scholars educated at Hertford College:

Be it therefore enacted, that from and after the passing of this Act any office, place or employment, the salary and perquisites whereof shall exceed the sum of fifteen hundred pounds, may be granted to and conferred upon the said servants who shall have been actually resident in India in the said company's service for the space of four years at the least in the whole antecedent to such vacancy;

and if the salary, perquisites, and emoluments of any office, place or employment shall exceed the sum of three thousand pounds per annum, such office may be conferred upon any of the said servants who shall have been actually resident in India seven years at least in the whole;

Places of more than 1,500*l.* per annum may be given after four years' service in India; places of more than 3,000*l.* per annum after seven years; and places of more than 4,000*l.* per annum (including the

¹ See the Secretaries to Government Act, 1834 (II of 1834).

(Secs. 84-85.)

council) after
ten years.

and if the salary, perquisites and emoluments of any office, place, or employment shall exceed four thousand pounds per annum, such office, including that of the council, may be granted to or conferred upon any of the said servants who shall have been actually resident in India in the company's service for the space of ten years at the least in the whole.

83. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

33 Geo. 3, c.
52, s. 70.

84. And whereas by the said Act of the Parliament of Great Britain of the thirty-third year of his Majesty's reign it is enacted, that no person who shall hold a military station in the service of the said company, being under the rank of commander-in-chief of the forces, and who having departed from India by leave of the governor general in council, or governor in council, shall not return to India within five years next after such departure, shall be entitled to any rank, or be capable of again serving in India either in the European or native corps of troops, unless it shall be proved to the satisfaction of the said court of directors, and the board of commissioners for the affairs of India, that such absence was occasioned by sickness or infirmity, or some inevitable accident :

and whereas inconvenience to the military service of the said company has been found to arise in certain cases from the said provision :

Certain officers may return to India, after five years' absence, with consent of the directors and the board, though their absence may not have been occasioned by sickness, infirmity, or inevitable accident. Restored civil servants to take precedence according to their seniority at the time of their departure from India.

Be it therefore enacted, that it shall and may be lawful for the said court of directors, with the approbation of the said board of commissioners, to permit any military officer, being of the rank of a general officer or colonel commanding a regiment, or being a lieutenant colonel commandant of a regiment, who having departed from India with such leave as aforesaid, shall not have returned to India within five years from the time of such departure to have his rank and to be capable of again serving in India, although such absence may not have been occasioned by sickness or infirmity, or any inevitable accident, any thing in the said Act contained to the contrary notwithstanding.

85. And * * * * when and as often as any person having held any civil station in India in the service of the said company, and having departed from India by leave of the governor general in council, or governor in council, shall be restored to the said company's service after an absence of five years from the time of such departure, such person from and after such restoration shall take rank and precedence only according to the time he shall have passed in the service of the said company at the period of his departure from India ;

and on his return to India, if any other civil servant or servants at the settlement to which he shall belong shall have then passed a greater or the like length of time in the service of the said company, as the person so

(Secs. 86-89.)

restored had passed when he left India, the person so restored shall be placed and take rank immediately below such other civil servant or servants, any matter or thing to the contrary notwithstanding.

86. And whereas by the said Act of the Parliament of Great Britain 33 Geo. 3, c. 52, s. 56. of the thirty-third year of his present Majesty's reign, it is enacted, that all the civil servants of the said united company in India under the rank or degree of member of council shall have and be entitled to precedence in the service of the said company at their respective stations according to the seniority of their appointment :

and whereas the several governments of the said company are often prevented from appointing meritorious servants of the said company to be members of courts, boards, and other official establishments, where offices or employments are exercised by several servants of the said company collectively, lest by such appointment one or more members of such court, board, or other establishment should be superseded ;

Be it therefore enacted, that it shall and may be lawful for any governor general or governor in council of the said company, if he shall think proper, upon application in writing for that purpose by any civil servant of the said company desirous of being appointed a member of any such court, board, or other establishment, by special order to direct that such servant of the said company, on being appointed to any office or employment in such any court, board, or other establishment shall take precedence at or in such court, board, or other establishment according to the seniority of his appointment as a member of such court, board, or other establishment, although such civil servant in respect of whom such order shall be made may thereby not take precedence at or in such court, board, or other establishment, according to the seniority of his appointment to the service of the said company ;

Servants of the company may be appointed to boards, courts, or other official establishments, though they do not take precedence according to seniority of services.

and such civil servant shall thereupon take precedence at such court, board, or other establishment accordingly ; the said Act or any other matter or thing to the contrary notwithstanding.

87 & 88. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

89.¹ And whereas by a certain Act passed in the thirteenth year of his present Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India company as well in India as in Europe," it is enacted that the salaries of the governor general and council of Fort William, and of the chief justice and judges of the supreme

Recital of 13 Geo. 3, c. 68. s. 22.

¹ S. 89 rep. 41 & 42 Vict., c. 79 (S. L. R.), so far as it relates to the Governor of Prince of Wales' Island and the Recorder there.

(Sec. 93.)

court of judicature at Fort William in Bengal, shall take place and commence, in respect to all such persons who shall be resident in Great Britain at the time of their appointment, upon and from the day on which such persons shall embark from Great Britain; and that the salaries of all such persons who shall at the time of their appointment be resident in India, shall commence from and after their respectively taking upon them the execution of their offices:

39 & 40 Geo.
3, c. 79, s. 7.

and whereas by an Act passed in the fortieth year of his Majesty's reign, intituled "An Act for establishing further regulations for the government of the British territories in India and the better administration of justice within the same," a similar provision is made in respect to the salaries of the chief justice and judges of the supreme court of judicature at Madras;

37 Geo. 3, c.
142, s. 20.

and whereas by an Act passed in the thirty-seventh year of his Majesty's reign, intituled "An Act for the better administration of justice at Calcutta, Madras and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India," a similar provision is made in respect to the salary of the recorder of the court of judicature at Bombay:

and whereas no such provision has been made respecting the commencement of the salaries of the governor or council of Fort St. George, or of the governor or council of the town and island of Bombay, or of the governor of Prince of Wales' Island, or of the recorder there:

and whereas it is expedient that a general and moderate provision should be made in respect of all the said offices, and of others who may happen to be in the United Kingdom at the time of their appointments:

Repealed Acts
repealed as to
commence-
ment of
salaries.

Salaries when
to commence.

Be it therefore further enacted that so much of the said Acts of the thirteenth, thirty-seventh and fortieth years of his Majesty's reign, as relates to the commencement of salaries, shall be and the same is hereby repealed;

and that from and after the passing of this Act the salaries of the several officers herein-before mentioned shall commence from and after their respectively taking upon them the execution of their offices: * * * *

90 to 92. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

93. And whereas it is reasonable that the said court of directors should have power to grant allowances in the nature of superannuations to such of their officers and servants in England, as from age or infirmity may no longer be qualified for the execution of their several offices or employments:

Court of di-
rectors may
grant super-
annuations to
company's
servants in
England.

Be it therefore enacted, that it shall and may be lawful to and for the said court of directors to make allowances, compensations, remunerations or superannuations to the officers and servants of the said company in England, subject to the restrictions and according to the conditions and proportions following; (that is to say,)

(Secs. 94-96.)

where it shall be proved to the satisfaction of the said court of directors that any such officer or servant, being under sixty years of age, shall be incapable from infirmity of mind or body to discharge the duties of his office, in such case,

if he shall have served with diligence and fidelity in the service of the said company for ten years, it shall and may be lawful to grant him, by way of superannuation, any annual sum not exceeding one-third of the salary and allowed emoluments of his office;

if above ten years and less than twenty, any such sum not exceeding one-half of such salary and allowed emoluments;

if above twenty years, any such sum not exceeding two-thirds of such salary and allowed emoluments;

if such officer or servant shall be above sixty years of age, and he shall have served fifteen years or upwards, it shall and may be lawful, without proof of infirmity of mind or body, to grant him, by way of superannuation, any annual sum not exceeding two-thirds of the salary and allowed emoluments of his office;

if sixty-five years of age or upwards, and he shall have served forty years or upwards, any such sum not exceeding three-fourths of such salary and allowed emoluments;

if sixty-five years of age or upwards, and he shall have served fifty years or upwards, any such sum not exceeding the whole of such salary and allowed emoluments;

all which allowances so to be made shall be charged in the books of account of the said company to the debit of that branch of the company's affairs to which the said officers or servants may respectively belong; anything in the said Act of the thirty-third year of his Majesty's reign to the contrary notwithstanding.

94. Provided always * * * * that an account of all allowances, compensations, remunerations, and superannuations, which shall be granted either to the officers or servants of the said board of commissioners or to the officers or servants of the said company as aforesaid during the preceding year, shall be laid before Parliament within fifteen days after the next meeting thereof.

Account of
superannua-
tions to be
laid before
Parliament.

95. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

96. And whereas doubts have been entertained whether these several governments of the said company have sufficient power in all cases to make laws and regulations and Articles of War for the order and discipline of officers and soldiers, being natives of the East Indies or other places within the limits

(Secs. 94-96.)

of the said company's charter, in the service of the said company, and for the administration of justice by courts martial to be holden upon such officers and soldiers;

and it is expedient that such doubts should be removed :

The governments in India may make laws, regulations, and Articles of War, for the native troops, and for holding courts martial.

Be it therefore enacted and declared, that the several governments of Fort William, Fort Saint George, and Bombay have and shall, during the continuance of the term hereby granted to the said company, be deemed and taken to have full power and authority to make all such laws and regulations and Articles of War as they may think fit, for the order and discipline of all officers and soldiers, natives of the East Indies or other places within the limits of the said company's charter, in their respective services, and for the administration of justice by courts martial to be holden on such native officers and soldiers, and for the constitution and manner of proceeding of such courts martial, and for all other purposes relating to or in any manner concerning such native officers and soldiers, in as full and ample a manner as the said governments respectively may make any other laws or regulations for the government of the natives of the several territories subject to the said presidencies respectively, any Act of Parliament or other matter or thing to the contrary notwithstanding :

Provided always, that all laws, regulations, and Articles of War hereafter to be made respecting any of the matters aforesaid, whereby the rights, persons, or property of any such native officers or soldiers may be affected, shall be made and promulgated in every respect in the same manner as other regulations affecting the rights, persons, or property of natives or other individuals amenable to the provincial courts of the presidency of Fort William in Bengal are directed to be made by virtue of an Act passed in the thirty-seventh year of his Majesty's reign, intituled "An Act for the better administration of justice at Calcutta, Madras, and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India."

37 Geo. 3,
c. 142.

97. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.) ; rep. also as to B. I. by XII of 1873, s. 1 and sch.*]

98 and 99. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.) ; rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

100 to 103. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.) ; rep. also as to B. I. by X of 1895, s. 2 and sch.*]

104. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.) ; rep. also as to B. I. by XIV of 1870 s. 1 and sch.*]

(Sec. 111.)

105. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.) ; rep. also as to B. I. by X of 1882, s. 2 and sch.*]

106. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.)*.]

107. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.) ; rep. also as to B. I. by XI of 1836.*]

108 and 109. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.) ; rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

110. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.)*.]

111. And whereas doubts have arisen whether the advocate general or other principal law officer of the said company, at any of the said company's presidencies, is by law authorized to exhibit to the respective courts of judicature at any of the said presidencies, for and on behalf of his Majesty, informations in the nature of actions at law or bills in equity for or in respect of any cause or causes of action, debts, dues, demands, accounts, reckonings, sum or sums of money, stores, goods, chattels, or any other matter, cause, or thing whatsoever, which may have arisen or accrued, or which may arise or accrue to his Majesty :

For remedy thereof, be it further enacted, that it shall and may be lawful to and for the advocate general or other principal law officer of the said company for the time being, at each of the said company's presidencies respectively, for and on behalf of his Majesty, his heirs and successors, to exhibit to the respective supreme courts of judicature of the said company's presidencies of Fort William and Madras, or to the recorder's court at Bombay, or the court of judicature at Prince of Wales' Island, any information or informations in the nature of an action or actions at law, or of a bill or bills in equity as occasion shall require, against any person or persons residing within or being amenable to the jurisdiction of the said courts respectively, for or in respect of any cause or causes of action, debts, dues, demands, accounts, reckonings, sum or sums of money, stores, goods, chattels, or any other matter cause, or thing whatsoever, as fully and effectually to all intents and purposes as his Majesty's attorney general for the time being is by law authorized to exhibit any such information or informations in any of his Majesty's courts of law or equity in this realm ;

Advocate general of the company may file informations in King's Courts, for debts due to his Majesty.

and that thereupon such proceedings shall be had, as far as the circumstances of the case and the course and practice of the said courts of judicature at the said several presidencies will admit, as are had upon any such informations exhibited by his Majesty's attorney general in any of his Majesty's Courts of law or equity in this realm.

112. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also as to B. I. by II of 1869, s. 2 and sch.*]

113. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

[114 to 120. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

121. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also as to B. I. by XII of 1873, s. 1 and sch.*]

122. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.); rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

123. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.); rep. also as to B. I. by XX of XII of 1873, s. 1 and sch. .*].

124. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.); rep. also as to B. I. by IX of 1871, s. 2 and sch. 1.*]

THE INDIAN PRESIDENCY TOWNS ACT, 1815.¹

(55 Geo. 3, c. 84.)

*An Act to amend so much of an Act of the Thirty-third Year of His present Majesty as relates to fixing the Limits of the Towns of Calcutta, Madras, and Bombay ; * * * * * *.*

[14th June, 1815.]

Power to
extend limits
of the towns
of Calcutta,
Madras, and
Bombay.

[*Preamble recites 33 Geo. 3, c. 52, s. 159.*]

1. It shall and may be lawful to and for the governor general in council at Fort William in Bengal, from time to time, as circumstances shall in their judgment require, to extend the limits of the town of Calcutta;

and to and for the governor in council at Fort Saint Georg; from time to time, as circumstances shall in their judgment require, to extend the limits of the town of Madras;

and to and for the governor in council at Bombay, from time to time as circumstances shall in their judgment require, to extend the limits of the town of Bombay;

and that such extended limits as the said respective governments shall from time to time, in and by their respective orders in council, or by their regulations, declare and prescribe as aforesaid to be the limits of the said towns respectively, shall, from the time of publishing such orders in council or regulations by proclamation at the respective presidencies, be held, deemed, and taken, as and for the true limits of the same;

¹ As to the Presidency-towns and the history of the jurisdiction therein of the old supreme courts, see Cowell's *Courts*, and Legislative Authorities in India, Ed. 2, pp 58, 89, 100, 157, 166. See too, for digest and notes, *Libert's Government of India*, pp. 82, 192, and 297. For definition "Presidency-town," see General Clauses Act, 1897 (X of 1897), s. 3 (41).

and from time to time, as any extension shall be made thereof, all jurisdictions, powers, and authorities, which, by virtue of any Act or Acts of Parliament, or any charter, or charters, or any law or usage, shall or may be bounded or regulated by the limits of the said towns respectively, shall thenceforth be bounded and regulated by the limits of the said towns respectively, as they shall be declared and prescribed from time to time in manner herein-before mentioned; any custom, law, or usage to the contrary notwithstanding:

Provided always, that no order in council or regulation here-after to be made, and declaring or prescribing the limits of any of the said towns, shall be valid or effectual, until it shall have been sanctioned or shall have been authorized to be made and passed by the court of directors of the united company of merchants of England trading to the East Indies, with the approbation of the board of commissioners for the affairs of India.

2 to 9. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

THE ORDINATION FOR COLONIES ACT, 1819.

(59 Geo. 3, c. 60.)

An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the Time being to admit Persons into Holy Orders specially for the Colonies. [2nd July, 1819.]

[*Preamble.*]

1. It shall be lawful for the archbishop of Canterbury, the archbishop of York, or the bishop of London for the time being, or any bishop specially authorized and empowered by any or either of them, to admit into the holy orders of deacon or priest any person whom he shall upon examination deem duly qualified specially for the purpose of taking upon himself the cure of souls, or officiating in any spiritual capacity in his Majesty's colonies or foreign possessions and residing therein;

Archbishop of Canterbury or York or bishop of London, or any bishop specially authorized by any of them, may ordain specially for the colonies.

and a declaration of such purpose and a written engagement to perform the same under the hand of such person, being deposited in the hands of such archbishop or bishop, shall be held to be a sufficient title with a view to such ordination;

The fact to be stated in the letters of ordination.

and in every such case it shall be distinctly stated in the letters of ordination of every person so admitted to holy orders that he has been ordained for the cure of souls in his Majesty's foreign possessions.

2 to 5. [*Rep. 37 & 38 Vict., c. 77.*]

6. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.).*]

(Secs. 1-2.)

THE DIVORCE BILLS EVIDENCE ACT, 1820.

(1 Geo. 4, c. 101.)

An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India.

[24th July, 1820.]

[Preamble.]

Speaker of either House of Parliament may issue his warrant for the examination of witnesses in India in cases of bills of divorce.

1. Whensoever and as often as either House of Parliament, upon the petition of any party praying for a bill for the dissolution of any marriage, and stating that the witnesses necessary to substantiate the allegations of such bill are resident in India, shall see cause to direct that the examinations of such witnesses shall be taken in India, the speaker of such House of Parliament shall thereupon issue his warrant or warrants to the judges of the supreme court of judicature of the presidency of Calcutta, the judges of the supreme court of judicature of the presidency of Madras, the recorder of the presidency of Bombay, or the judges of the Supreme Court of Judicature of the island of Ceylon, respectively, accordingly as the witnesses proposed to be examined shall be resident within any one or more of the said presidencies or the said island, for the examination upon oath of all such witnesses as shall be produced before them touching the allegations of such bill and touching any notices or other matters which shall in such warrant be specified;

and in all cases where such warrants shall be so issued, duplicates of such warrants, together with copies of such bill, shall be transmitted by different ships, at the desire of the agent of the party or parties soliciting such bill, to the persons to whom such warrants shall be directed.

Judges in India, on receipt of such warrant, shall examine such witnesses, etc.

2. * * * * in all cases immediately upon the receipt of such warrant or warrants the judges or recorder to whom the same shall have been directed shall appoint some time or times with all convenient speed for the examination of witnesses and receiving other proofs touching the allegations of such bill and in opposition thereto, and touching such notices and other matters as shall in such warrant have been specified, and in the meantime shall cause such public notice to be given of such examination, and shall issue such summons or other process as may be requisite for the attendance of witnesses and of the agents or counsel of all or any of the parties respectively, and of such other witnesses as after mentioned, and to adjourn from time to time as occasion may require;

and such examinations as aforesaid shall be then and there openly and publicly taken *visâ voce* upon the respective oaths of witnesses, and the oaths of skilful interpreters, administered according to the forms of their several

(Secs. 3-4.)

religions, and shall, by some sworn officer of the court, be reduced into writing ;

and two copies thereof shall be made ;

and the judges or recorder, before whom such examination shall have been taken, shall certify the same under the official seal of their several courts, together with a declaration of such judges or recorder, that such examinations have in their or his judgment been fairly and properly conducted, and that all such witnesses had been produced as were fit to be produced for the purpose of ascertaining the whole truth, so far as the attendance of such witnesses could be reasonably obtained ; and shall transmit the same by different ships to the speaker of either House of Parliament, under whose warrant such examination shall have been taken ;

Two copies of such examinations shall be certified and transmitted to the speaker of either House of Parliament; and shall be admissible in evidence.

and every such examination so returned to the speaker of either House of Parliament as aforesaid shall be competent and admissible evidence, and shall be allowed and read in both Houses of Parliament, or either of them respectively, as occasion may require, any law or usage to the contrary notwithstanding.

3. * * * * it shall and may be lawful for such judges or recorder, upon any such examination, to ask any such questions of any witness who shall be produced before them or him, and to require such further witnesses resident within such presidency or island respectively to be produced, as shall appear fit and necessary for the due investigation of the allegations of such bill, or of any other matters in such warrants specified ;

Judges may ask such questions and require such further witnesses to be produced, etc., as shall be necessary.

and to allow such attendance by counsel, and such cross-examination of witnesses, as shall be deemed by such judges and recorder to be fit and proper for the purpose of such investigation ;

and for such purpose, if necessary, to name some proper person or persons to attend as counsel and agent in opposition to such bill, and to procure any evidence which may be necessary for the purpose of such opposition, to the end that a full and fair disclosure may be made of all the facts and circumstances of the case.

4. * * * * no proceedings in Parliament touching any bill for the dissolution of marriage, wherein such warrant as aforesaid shall have been issued, shall be discontinued by any prorogation or dissolution of Parliament, until the examination therein directed, shall have been returned ;

Proceedings not to be discontinued by prorogation, etc., of Parliament, where such warrants have been issued.

but such proceedings may be resumed and proceeded upon in a subsequent session or in a subsequent Parliament in either House of Parliament in like manner and to all intents and purposes as they might have been in the

(Secs. 3-4.)

course of one and the same session, any law, usage, or custom to the contrary notwithstanding.

THE INDIAN BISHOPS AND COURTS ACT, 1823.¹

(4 Geo. 4, c. 71.)

An Act for defraying the Charge of Retiring Pay, Pensions, and other Expences of that Nature, of His Majesty's Forces serving in India; for establishing the Pensions of the Bishop, Archdeacons, and Judges; for regulating Ordinations; and for establishing a Court of Judicature at Bombay.

[11th July, 1823.]

[Preamble recites 53 Geo. 3, c. 155.]

1 and 2. [Rep. 36 & 37 Vict., c. 91 (S. L. R.).]

Pensions to
bishop and
archdeacons.

3. * * * * it shall and may be lawful for

his Majesty, his heirs and successors, in manner in the said Act mentioned, to grant to any such bishop who shall have exercised in the East Indies or parts aforesaid for ten years the office of bishop or archdeacon, * * *

* * * * ²pensions not exceeding such sums respectively as his Majesty by the said Act of the fifty-third year of the reign of his late Majesty is empowered to grant to any such bishop * * *²

Where chap-
lains are
appointed
archdeacons,
their resi-
dence as
chaplains
shall count
towards pen-
sion in a
certain pro-
portion.

4. Provided also * * * * that if any person residing any time in the East Indies or parts aforesaid, as one of the chaplains of the said united company, shall have been or shall be appointed to the office of such archdeacon as aforesaid, and shall have resided in the East Indies or parts aforesaid as such archdeacon seven years, the period of residence of such person as chaplain shall be accounted and taken as and for a residence as such archdeacon, in the proportion of three years' residence as such chaplain to two years' residence as such archdeacon:

Provided also, that nothing herein contained shall extend or be construed to extend to prejudice the right of any person being or having been a chaplain of the said united company to any benefit he may be entitled to as under or by virtue of any regulation now in force or hereafter to be made by the said united company or their court of directors, nor to prejudice or affect the right of the said united company or their court of directors to make, repeal, vary, or alter any regulation or regulations respecting the chaplains of the said united company, or the pay or allowances, pensions or retirements of such

¹ As to this Act, see Phillimore's *Ecclesiastical Law*, Ed. 2, p. 1795 (*Church in the East Indies*). For digest and notes, see *Ilbert's Government of India*, pp. 297-298.

² S. 1 has been repealed as to archdeacons, by 43 Vict., c. 3, s. 5. Hence omission.

(Secs. 5-6.)

chaplains, which the said united company or their court of directors may now lawfully make, repeal, vary, or alter.

5. [*Recital.*] It shall and may be lawful for the said company, and they are hereby required, to provide a suitable house at Calcutta for the residence of the said bishop;

Residence and
expence of
visitations of
bishop to be
provided and
defrayed by
the company.

and the expence of the visitations to be made by the said bishop from time to time shall be defrayed by the said company out of the revenues of the British territories in India:

Provided always, that no greater sum on account of providing such house, or of such visitations, be at any time issued, than shall from time to time be defined and settled by the court of directors of the said company with the approbation of the commissioners for the affairs of India, any law or statute to the contrary notwithstanding.

6. [*Recital.*] It shall and may be lawful for the bishop of Calcutta for the time being to admit into the holy orders of deacon and priest respectively, any person whom he shall, upon examination, deem duly qualified specially for the purpose of taking upon himself the cure of souls, or officiating in any spiritual capacity within the limits of the said diocese of Calcutta, and residing therein;

Power to the
bishop of Cal-
cutta to admit
persons to
holy orders
for cure of
souls in his
diocese.

and a declaration of such purpose, and a written engagement to perform the same, under the hand of such person, being deposited in the hands of such bishop, shall be held to be a sufficient title with a view to such ordination;

and in every such case it shall be distinctly stated in the letters of ordination of every person so admitted to holy orders, that he has been ordained for the cure of souls within the limits of the said diocese of Calcutta only;

and unless such person shall be a British subject of or belonging to the United Kingdom of Great Britain and Ireland, he shall not be required to take and make the oaths and subscriptions which persons ordained in England are required to take and make:

Provided always, that nothing herein contained shall be construed to repeal or affect the provisions of an Act passed in the fifty-third year of the reign of his late Majesty King George the Third, intituled "An Act for continuing in the East India company for a further term the possession of the British territories in India, together with certain exclusive privileges, for establishing further regulations for the government of the said territories, and the better administration of justice within the same, and for regulating the trade to and from the places within the limits of the said company's charter," or any letters patent issued by his late Majesty or by his present Majesty, their heirs and successors, in virtue of the said Act or of their lawful prerogative.

Saving of
provisions of
53 Geo. 3,
c. 155, etc.

(Secs. 7-17.)

7. [*Recital of Letters Patent, dated 8th January, in the year 26 Geo. 3, and of Acts 37 Geo. 3, c. 142, 18 Geo. 3, c. 63, and 39 & 40 Geo. 3, c. 79.*]

His Majesty
may establish
a supreme
court of judi-
cature at
Bombay.

It shall and may be lawful for his Majesty, * * by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Bombay aforesaid, to consist of such and the like number of persons, to be named from time to time by his Majesty, his heirs and successors, with full power to exercise such civil, criminal, admiralty, and ecclesiastical jurisdiction, both as to natives and British subjects, and to be invested with such powers and authorities, privileges, and immunities, for the better administration of the same, and subject to the same limitations, restrictions, and controul, within the said town and island of Bombay, and the limits thereof, and the territories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the said government of Bombay, as the said supreme court of judicature at Fort William in Bengal by virtue of any law now in force and unrepealed doth consist of, is invested with, or subject to, within the said Fort William, or the places subject to or dependent on the government thereof :

Provided always, that the governor and council at Bombay and the governor general at Fort William aforesaid shall enjoy the same exemption and no other from the authority of the said supreme court of judicature to be there erected, as is enjoyed by the said governor general and council at Fort William aforesaid for the time being from the jurisdiction of the supreme court of judicature there already by law established.

8 to 10. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.) ; rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

Salaries to be
in lieu of all
fees.

11. * * * * the said salaries of such chief justice and judges shall commence and take place from and after their respectively taking upon them the execution of their office as aforesaid ;

and all such salaries shall be in lieu of all fees of office, perquisites, emoluments, and advantages whatsoever ;

and no fees of office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken in any manner or on any account or pretence whatsoever, other than such salaries or allowances as are in and by this Act directed to be paid.

12 and 13. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.).*]

14 to 16. [*Rep. 36 & 37 Vict., c. 91 (S. L. R.) ; s. 14 rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

Supreme

17. * * * * it hath been and is and shall be lawful for the supreme

(Sec. 25.)

court of judicature at Madras, within Fort Saint George and the town of Madras and the limits thereof, and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the government of Madras ;

courts at Madras and Bombay to have the same powers as the supreme court at Fort William in Bengal.

and it shall be lawful for the said supreme court of judicature at Bombay to be created by virtue of this Act, within the said town and island of Bombay and the limits thereof, and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the said government of Bombay ;

and the said supreme courts respectively are hereby required within the same respectively,

to do, execute, perform, and fulfil all such acts, authorities, duties, matters, and things whatsoever, as the said supreme court of Fort William is or may be lawfully authorized, empowered, or directed to do, execute, perform, and fulfil within Fort William in Bengal aforesaid, or the places subject to or dependent upon the government thereof.

18. [Rep. 36 & 37 Vict., c. 91 (S.L.R.).]

THE LASCARS ACT, 1823.

(4 Geo. 4, c. 80.)

*An Act to consolidate and amend the several Laws now in force with respect to Trade from and to places within the limits of the Charter of the East India Company, and to make further Provisions with respect to such Trade; and to amend an Act of the present Session of Parliament for the registering of Vessels so far as it relates to Vessels registered in India.*¹

[18th July, 1823.]

[Preamble.]

1 to 24. [Rep. 36 & 37 Vict., c. 91 (S.L.R.).]

25. * * * * it shall and may be lawful to and for the governor or general of Fort William in Bengal in council, and he is hereby required, as soon as may be, to make, ordain, and publish, and from time to time as occasion may require to repeal and alter, and newly to make, ordain, and publish such rules and regulations to be observed by masters, officers, and owners of ships and vessels trading under the authority of this Act, the crews of which ships or vessels shall be wholly or in part composed of Asiatic sailors,

Governor of Fort William to make rules, etc., with respect to masters, etc., for lascars, etc., in ships trading under this Act.

¹ This Act is repealed, except such parts thereof as relate to Asiatic sailors, lascars, being natives of the territories under the government of the East India Company, 3 & 4 Will. 4, c. 93, s. 1. For saving, see 57 & 58 Vict., c. 60, s. 125(5). See, too, Scrutton's *Merchant Shipping Act, 1894*, Ed. 2, pp. 104—106.

(Secs. 26-28.)

lascars, or natives of any of the territories, countries, islands, or places within the limits of the charter of the said united company, for the due supply of provisions, clothing, and other necessary accommodation of such Asiatic sailors, lascars, and natives aforesaid, whilst they shall be on board such ships or vessels, and whilst absent from the countries or places to which they shall respectively belong, and until they shall be carried back to the places to which they may belong or from whence they may have been brought, and for the conveyance back of such Asiatic sailors, lascars, or natives as aforesaid within a reasonable time to be fixed by such rules or regulations.

Such rules and regulations to be observed in like manner as if they had formed part of this Act, etc.

26. * * * * all such rules and regulations, until they shall be repealed and altered, shall be observed and performed according to the true intent and meaning thereof, in like manner as if they had been herein inserted and had formed part of this Act;

and a copy of all and every such rules and regulations, signed and authenticated as such by the secretary for the time being of the government of Bengal, or by the secretary for the time being of the said united company, shall be deemed and received and taken in and by all courts, justices, and other persons, as full, sufficient, and conclusive evidence of such rules and regulations.

27. [*Rep. 57 & 58 Vict., c. 60.*]

Penalty for breach of rules as to lascars, etc.

28. * * * * for every breach or non-observance of any rule or regulation to be made in pursuance of this Act in relation to Asiatic sailors, lascars, or natives aforesaid, which shall have happened or taken place, * * * *¹ the master or commander and all and every the owners and owner of the ship or vessel on board which any such Asiatic sailor, lascar, or native aforesaid shall be or shall have been, shall forfeit the sum of ten pounds for every Asiatic sailor, lascar, or native aforesaid in respect of whom such breach, non-observance * * *¹ or defect shall have happened or taken place, to be recovered against the master, commander, and owners jointly or severally by bill, plaint, information, or action in any of his Majesty's courts of record in the United Kingdom of Great Britain and Ireland, or in the East Indies or elsewhere, to be commenced in the county or presidency or place where any such offender may happen to be, or by conviction in a summary way before two justices of the peace in the United Kingdom or in the East Indies, of the county or presidency where any such offender may happen to be:

and of which sum and sums so to be forfeited one-third part thereof shall

¹ Words repealed by 57 & 58 Vict., c. 60, have been omitted.

(Secs. 31-32.)

go, belong, and be paid to person or persons who shall inform or sue for the same, and the other two-third parts thereof shall be paid to such person or persons as the court or justices before whom the same shall be recovered shall award, to be applied in payment or reimbursement of any expence which may have been incurred by or for the use of the Asiatic sailor, lascar, or native aforesaid, or the respective Asiatic sailors, lascars, or native aforesaid, in respect of whom such forfeiture or forfeitures shall have been recovered, or in such other manner, for his or their maintenance, return home, or benefit, as the court or justices before whom the same shall be recovered shall direct.

29 and 30. [*Rep. as to U. K. 54 & 55 Vict., c. 67 ; omitted as being inapplicable to India ; s. 50 rep. also as to England, 47 & 48 Vict., c. 43.*]

31. [*Recital.*] If any such Asiatic sailor, lascar, or native aforesaid shall at any time be convicted of an act of vagrancy under any of the laws in force in the United Kingdom respecting vagrants, it shall and may be lawful to and for the justice or justices or magistrates, before whom such conviction shall take place, to order and direct that he shall be shipped on board any ship or vessel bound to the place, or as near as may be to the place, to which he shall belong, or from which he shall have been brought, and the commander of which shall be willing to take charge of him in order to his being returned thereto, at the expence of the person or persons liable under any rule or regulation to be made as before mentioned, or of any other person being otherwise willing to defray the same ;

LASCARS, etc., convicted of vagrancy to be shipped on board of a vessel bound to the place from whence they were brought.

and it shall and may be lawful for the commander of any such ship or vessel having taken charge of such vagrant, and he is hereby required, to keep and detain him on board his ship for the voyage for which he shall be shipped.

32. Provided also * * * * that no conviction, order, or proceeding, to be made or had by or before any justices of the peace or other magistrate by virtue of this Act, shall be quashed or vacated for want of form ; and that the order of such justices or other magistrates shall be final, and that no proceedings of any such justices or other magistrates in pursuance of this Act shall be removeable by *certiorari* or otherwise.

Proceedings not to be quashed for want of form, etc.

33. [*Rep. as to U. K. 56 & 57 Vict., c. 61. Omitted as being obsolete.*]

34. [*Rep. 57 & 58 Vict., c. 60.*]

(Sec. 2.)

THE SLAVE TRADE ACT, 1824.¹

(5 Geo. 4, c. 113.)

An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade.

[24th June, 1824.]

[Preamble.]

1. [*Rep. 36 & 37 Vict., c. 88, s. 30.*]

2. * * * * it shall not be lawful (except in such special cases as

the purchase, sale, or contract for slaves declared unlawful; as also the removal, importation or exportation of slaves;

are herein-after mentioned) for any persons to deal or trade in, purchase, sell, barter, or transfer, or to contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or to carry away, or remove, or to contract for the carrying away on removing of slaves or other persons, as or in order to their being dealt with as slaves; or to import or bring, or to contract for importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive detain, or confine on board, or to contract for the shipping, transshipping, embarking, receiving, detaining or confining on board of any ship, vessel, or boat, slaves or other persons for the purpose of their being imported or brought into any place whatsoever as or in order to their being dealt with as slaves; or to fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or to contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to lend or advance, or become security for the loan or advance, or to contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to become guarantee or security, or to contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared

the fitting out of vessels, or making of loans or guarantees on shipping of goods for the above purposes;

¹ Extended by 6 & 7 Vict., c. 98. See *Chitty's Statutes*, Tit. Criminal Law, p. 329; also *Stephen's Digest of the Criminal Law*, Ed. 5, pp. 82-83.

(Sec. 3.)

unlawful; or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise; or to ship, tranship, lade, receive, or put on board, or to contract for the shipping, transshipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to take the charge or command, or to navigate or enter and embark on board, or to contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel or boat, as captain, master, mate, petty officer, surgeon, supercargo, seaman, marine, or servant, or in any other capacity, knowing that such ship, vessel, or boat is actually employed, or is in the same voyage or upon the same occasion, in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to insure or to contract for the insuring of any slaves, or any property, or other subject matter, engaged or employed or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful.

the serving on
board ships
employed for
any of such
purposes;

or the insur-
ing of slaves
or slave ad-
ventures.

3. * * * * if any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or shall carry away or remove or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or shall import or bring or contract for the importing or bringing into any place whatsoever slaves or other persons as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves;

Penalty for
dealing in
slaves, or ex-
porting or im-
porting them,
etc.

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence

(Secs. 4-6.)

the sum of one hundred pounds of lawful money of Great Britain for each and every slave so dealt or traded in, purchased, sold, bartered, or transferred, carried away, removed, imported, brought, shipped, transhipped, embarked, received, detained, or confined on board, or so contracted for as aforesaid; the one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same;

and all property or pretended property in such slaves or persons as aforesaid shall also be forfeited, and the said slaves or persons shall and may be seized and prosecuted as herein-after is mentioned and provided.

Ships fitted out for slave trade to be forfeited.

4. * * * * if any persons shall fit out, man, navigate, equip, despatch, use, employ, let or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, such ship, vessel, or boat, together with all her boats, guns, tackle, apparel, and furniture, and together likewise with all property, goods, or effects found on board belonging to the owner or owners, part owner or part owners of any such ship, vessel, or boat, shall become forfeited, and may and shall be seized and prosecuted as herein-after is mentioned and provided.

Penalty for embarking capital in the slave trade, etc.

5. * * * * if any persons shall knowingly and wilfully lend or advance, or become security for the loan or advance, or shall contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful,

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so lent, advanced, or secured or so contracted for as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

Penalty for slave adventures.

6. * * * * if any persons shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall in any other manner engage or contract to engage directly or indirectly therein as a partner, agent, or otherwise,

then and in every such case the persons so offending, and their procurers,

(Secs. 7-9.)

counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so by them secured or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

7. * * * * if any person shall knowingly and wilfully ship, trans- Penalty for shipping goods, &c., to be employed in the slave trade. ship, lade, receive, or put on board, or contract for the shipping, transshipping, lading, receiving, or putting on board of any ship, vessel, or boat, any money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful,

then and in every such case the persons so offending, and their procurers counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so shipped, transhipped, laden, received, or put on board, or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

8. * * * * if any person shall knowingly and wilfully insure or Penalty for insuring slaves or slave adventures. contract for the insuring of any slaves, or any property or other subject matter engaged or employed, or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful,

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for every such insurance or contract for the same, and also treble the amount of the premium of any such insurance or contract for the same, the one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same, and every such insurance shall be absolutely null and void.

9. * * * * if any subject or subjects of his Majesty, or any Subjects of his Majesty, &c., dealing in slaves on the high seas &c., to be deemed guilty of piracy. person or persons residing or being within any of the dominions, forts, settlements, factories or territories now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the United Company of Merchants of England trading to the East Indies, shall, upon the high seas, or in any haven, river, creek, or place where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove, or aid, or assist in carrying away, conveying, or removing, any person or persons as a slave or slaves or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, terri-

(Sec. 10.)

tory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or shall upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining, on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed, or removed as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves,

then and in every such case the person or persons so offending shall be deemed and adjudged guilty of piracy, felony, and robbery * *.

Persons dealing in slaves or removing or exporting or importing slaves;

10. * * * * if any persons shall deal or trade in, purchase, sell, barter, or transfer or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves, or shall, otherwise than as aforesaid, carry away or remove, or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves, or shall import or bring, or contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves, or shall, otherwise than as aforesaid, ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transshipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or shall fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully lend or advance, or become security for the loan or advance, or contract for the lending or advancing, or becoming security for the loan or advance, of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful; or

or fitting out slave ships;

or embarking capital, etc., in the slave trade;

(Sec. 10.)

shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise; or shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transshipping, lading, receiving or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, surgeon, or supercargo, knowing that such ship, vessel, or boat is actually employed or is, in the same voyage or upon the same occasion in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed, in accomplishing any of the objects, or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall wilfully and fraudulently forge or counterfeit any certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this Act), or any part of such certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid; or shall knowingly and wilfully utter or publish the same, knowing it to be forged or counterfeited, with intent to defraud his Majesty, his heirs or successors, or any other person or persons whatsoever, or any body politic or corporate;

or guarantee-
ing slave ad-
ventures;

or shipping
goods, etc., to
be employed
in the slave
trade;

or serving on
board slave
ships as cap-
tain, master,
surgeon, etc.

or insuring
slaves or slave
adventures;

or forging
instruments
relating to the
slave laws;

then and in every such case the person or persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted.

declared
guilty of
felony, etc.

(Secs. 11-40.)

Seamen, etc.,
serving on
board such
ships declared
guilty of a
misdemeanor,
etc.

11. * * * * if any persons shall enter and embark on board, or contract for the entering and embarking on board of any ship, vessel, or boat, as petty officer, seaman, marine, or servant, or in any other capacity not herein-before specifically mentioned, knowing that such ship, vessel, or boat is actually employed or is, in the same voyage or upon the same occasion in respect of which they shall so enter and embark on board; or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful,

then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and they are hereby declared to be guilty of a misdemeanor only, and shall be punished by imprisonment for a term not exceeding two years.

Making any
offence piracy,
felony, etc.,
shall not affect
the provisions
of this Act,
imposing for-
feitures or
penalties for
any such
offence.

12. Provided always * * * * that nothing in this Act contained, making piracies, felonies, robberies, and misdemeanors of the several offences aforesaid, shall be construed to repeal, annul, or alter the provisions and enactments in this Act also contained, imposing forfeitures and penalties or either of them upon the same offences, or to repeal, annul, or alter the remedies given for the recovery thereof; but that the said provisions and enactments imposing forfeitures and penalties shall in all respects be deemed and taken to be in full force,

13 to 38 [*Rep. 56 & 37 Vict., c. 88, s. 30.*]

Mortgages,
etc., given for
purposes here-
by declared
unlawful shall
be void, ex-
cept in case
of *bonâ fide*
purchasers
of negotiable
securities
without
notice.

39. * * * * every mortgage, bond, bill, note or other security, made in or to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have by this Act been declared unlawful, shall, except in the case of a *bonâ fide* purchaser or holder of any such of the said securities as are in their nature negotiable, who may have purchased or obtained the same without notice that the same were made or given for any such unlawful purposes, be void.

Offenders
giving inform-
ation against
owners of
vessels, etc.,
to be ex-
empted from
penalties.

40. Provided always * * * * that if any person or persons offending as a petty officer, seaman, marine, or servant, against any of the provisions of this Act, shall, within two years after the offence committed, give information on oath before any competent magistrate against any owner or part owner, or any captain, master, mate, surgeon, or supercargo of any ship or vessel, who shall have committed any offence against this Act and shall give evidence on oath against such owner or part owner, captain, master, mate, surgeon, or supercargo, before any magistrate or court before whom such offender may be tried;

or if such person or persons so offending shall give information to any of his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, so that any person or persons owning such ship or vessel, or navigating or taking charge of the same, as captain, master, mate, surgeon, or supercargo, may be apprehended ;

such person or persons so giving information and evidence shall not be liable to any of the pains or penalties under this Act incurred in respect of his offence, and his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, are hereby required to receive any such information as aforesaid, and to transmit the particulars thereof, without delay, to one of his Majesty's principal secretaries of state, and to transmit copies of the same to the commanders of his Majesty's ships or vessels then being in the said port or place.

41 to 46. [*Rep. 36 & 37 Vict., c. 88, s. 30.*]

47. * * * * all actions, suits, bills, indictments, Limitation of suits, etc., for penalties and forfeitures, or informations, for the recovery of any of the penalties or forfeitures under this Act, may be commenced, had, brought, sued, exhibited, or prosecuted at any time within five years after the offence committed, by reason whereof such penalty or forfeiture shall be incurred :

Provided always, that where any slave or slaves have been, or shall at any time have been illegally imported, nothing herein contained shall extend to prevent proceeding being commenced to obtain the condemnation or forfeiture thereof, but that the said slave or slaves so illegally imported shall and may be condemned and forfeited at any time after such illegal importation. No limitation to suits for condemnation and forfeiture of slaves illegally imported.

48 to 82. [*Rep. 36 & 37 Vict., c. 88, s. 30.*]

THE QUARANTINE ACT, 1825.

(6 Geo. 4, c. 78.)

An Act to repeal the several Laws relating to the performance of Quarantine, and to make other Provisions in lieu thereof.

[27th June, 1825.]

[*Preamble.*]

1. [*Rep. 36 & 37 Vict., c. 91 (S.I.R.).*]

2. * * * * all vessels, as well his Majesty's ships of war as others, coming from or having touched at any place from whence his Majesty, his heirs or successors, by and with the advice of his or their privy council, shall have adjudged and declared it probable that the plague or other infectious disease or distemper highly dangerous to the health, of his Majesty's subjects may be brought, and all vessels and boats receiving any person, What vessels shall be liable to quarantine.

(Sec. 2.)

goods, wares and merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever, from or out of any vessel so coming from or having touched at such infected place as aforesaid, whether such persons, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles shall have come or been brought in such vessels, or such persons shall have gone or articles have been put on board the same, either before or after the arrival of such vessels at any port or place in the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, and whether such vessels were or were not bound to any port or place in the United Kingdom, or the islands aforesaid, and all persons, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever on board of any vessels so coming from or having touched at such infected place as aforesaid, or on board of any such receiving vessels or boats as aforesaid, shall be and be considered to be liable to quarantine within the meaning of this Act, and of any order or orders which shall be made by his Majesty, his heirs and successors, by and with the advice of his or their privy council, concerning quarantine and the prevention of infection, from the time of the departure of such vessels from such infected place as aforesaid, or from the time when such persons, goods, wares, merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles shall have been received on board respectively ;

and all such vessels and boats as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandize, and all other articles as aforesaid, whether coming or brought in such vessels or boats from such infected place as aforesaid, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, and all persons, goods, wares, and merchandize, and other articles as aforesaid, on board such receiving vessel or boat as aforesaid, shall, upon their arrival at any such port or place, be obliged to perform quarantine in such place or places, for such time, and in such manner, as shall from time to time be directed by his Majesty, his heirs or successors, by his or their order or orders in council, notified by proclamation, or published in the London Gazette ;

and until such vessels and boats, persons, goods, wares, and merchandize and other articles as aforesaid shall have respectively performed and shall be duly discharged from quarantine, no such person, goods, wares, or merchandize, or other articles as aforesaid, or any of them, shall either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, come or be brought on shore, or go and be put on board any other vessel or boat, in order to come or be brought on shore in any such

(Secs. 3-4.)

port or place, although such vessels so coming from such infected place as aforesaid may not be bound to any port or place in the United Kingdom, or the islands aforesaid, unless in such manner, and in such cases, and by such licence, as shall be directed or permitted by such order or orders made by his Majesty, his heirs or successors, in council, as aforesaid;

and, all such vessels and boats, whether coming from such infected place as aforesaid, or being otherwise liable to quarantine as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandize, and other articles as aforesaid, whether coming or brought in such vessels or boats, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, and although such vessels or boats shall not be bound to any port or place in the United Kingdom, or the islands aforesaid, and all commanders, masters, or other persons, having the charge or command of any such vessels or boats, whether coming from any infected place, or being otherwise liable to quarantine as aforesaid, shall be subject to all provisions, rules, regulations, and restrictions contained in this Act, or in any order or orders which shall be made by his Majesty, his heirs and successors, in council, as aforesaid, concerning quarantine and the prevention of infection, and to all the pains, penalties, forfeitures, and punishments contained in this Act, for any breach or disobedience thereof, or of any order or orders of his Majesty in council made under the authority thereof.

3. * * * * it shall and may be lawful for his Majesty, his heirs and successors, by his or their order in council, or for the lords or others of his or their privy council, or any two or more of them, by their order, from time to time, as often as they may see reason to apprehend that the yellow fever or other highly infectious distemper prevails on the continent of America, or in the West Indies, to require that every vessel coming from or having touched at any port or place on the continent of America or in the West Indies shall come to an anchor at certain places to be appointed from time to time by the commissioners of his Majesty's customs (who are hereby authorized to make such appointment), for the purpose of having the state of health of the crew of such vessel ascertained before such vessel shall be permitted to enter the port whereto she shall be bound, or any other port of the United Kingdom; but such vessel shall not be deemed liable to quarantine unless it shall be afterwards specially ordered under that restraint.

Power for privy council to order vessels coming from America or the West Indies, when the yellow fever, etc., prevails there, to anchor at certain places, but without being liable to quarantine.

4. Provided always * * * * that it shall and may be lawful for the lord lieutenant, or other chief governor or governors of Ireland,

Power to lord lieutenant of Ireland, where

(Sec. 5.)

the urgency of the case requires, to give directions by proclamation, where vessels shall perform quarantine, etc.

by his or their order or orders, made by the advice and consent of his Majesty's privy council in Ireland, and notified by proclamation, to give directions, where the urgency of the case shall require, as to the place or places, and as to the time and manner in which ships and vessels arriving, and persons, goods, and merchandizes coming or imported into any port or place in Ireland, shall make their quarantine, in pursuance of the provisions of this Act;

and that until such ships, vessels, persons, goods, and merchandizes shall have respectively performed and been discharged from such quarantine, pursuant to the provisions of this Act, it shall and may be lawful for any such persons, goods, or merchandizes, or any of them, to come or be brought on shore, or to go or be put on board any other ship or vessel in any place in Ireland, in such cases, and by such licence, as shall or may be directed or permitted by any order or orders to be made by the lord lieutenant, or other chief governor or governors of Ireland, by the advice and consent of the privy council there, and notified as aforesaid;

and that all such ships and vessels, and the persons or goods coming or imported in or going and being put on board such ships or vessels, and all ships, vessels, boats, and persons receiving any goods or persons out of the same, and all persons going on board any such ship or vessels, shall be subject to such orders, rules, and directions, concerning quarantine and the preventing infection, as shall be made from time to time by the lord lieutenant or other chief governor or governors of Ireland in council, and shall be notified by proclamation as aforesaid, in pursuance of the provisions contained in this Act;

and that the publication in the Dublin Gazette of any order or orders of the lord lieutenant or other chief governor or governors and council, made in pursuance of this Act, shall be deemed and taken to be sufficient notice, to all persons concerned, of all matters contained in any such order or orders respectively.

5. And whereas certain sorts of goods and merchandize are more especially liable to retain infection, and may be brought from places infected into other countries, and from thence imported into the United Kingdom, or the islands aforesaid:

Goods specified in any order of council and the vessels bringing the same shall be subject to quarantine; as also all ves-

Be it enacted, that all such goods and merchandize as shall be particularly specified for that purpose in any order or orders made by his Majesty, his heirs or successors, in council, concerning quarantine and the prevention of infection as aforesaid, which shall be brought or imported into any port or place in the United Kingdom, or the islands aforesaid, from any foreign country or place, in any vessel whatever, and the vessels in which the same

(Sec. 6.)

shall be brought, and also all vessels which shall arrive from any port or place whatever, under any alarming or suspicious circumstances as to infection, shall be subject and liable to such regulations and restrictions as shall be made by such order or orders of his Majesty, his heirs or successors, in council as aforesaid, respecting the same.

6. * * * * it shall and may be lawful for the lords and others of his Majesty's privy council, or any two or more of them, to make such order as they shall see necessary and expedient upon any unforeseen emergency, or in any particular case or cases, with respect to any vessel arriving and having any infectious disease or distemper on board, or on board of which any infectious disease or distemper may have appeared in the course of the voyage, or arriving under any other alarming or suspicious circumstances as to infection, although such vessels shall not have come from any place from which his Majesty, his heirs or successors, by and with the advice of his privy council, may have adjudged and declared it probable that the plague or any such infectious disease or distemper may be brought, and also with respect to the persons, goods, wares, and merchandize, and other articles as aforesaid on board the same;

and in case of any infectious disease or distemper appearing or breaking out in the United Kingdom, or the islands aforesaid, to make such orders and give such direction, in order to cut off all communication between any persons infected with any such disease or distemper and the rest of his Majesty's subjects, as shall appear to the said lords or others of his Majesty's privy council, or any two or more of them, to be necessary and expedient for that purpose;

and likewise to make such orders as they shall see fit for shortening the time of quarantine to be performed by particular vessels or particular persons, goods, wares, merchandize, or any other articles, or for absolutely or conditionally releasing them or any of them from quarantine;

and all such orders so made by the lords or others of the privy council or any two or more of them as aforesaid, shall be as good, valid, and effectual, to all intents and purposes, as well with respect to the commander, master, or other person having the charge of any vessel, and all other persons on board the same, as with respect to any other persons having any intercourse or communication with them, and to the penalties, forfeitures, and punishments to which they may respectively become liable, as any order or orders made by his Majesty, his heirs or successors, by and with the advice of his or their privy council, concerning quarantine, notified by proclamation or published in the London Gazette.

ships arriving from any port under suspicious circumstances as to infection.

The privy council may make such order as they shall think necessary upon emergencies;

also orders for shortening the time of quarantine or for discharge therefrom.

(Secs. 7-8.)

Regulations
for vessels in
which infec-
tion shall
appear within
or without
the Straights
of Gibraltar.

7. * * * * * if the plague, or such other infectious disease or distemper as aforesaid, shall appear on board any vessel, within or without the Straights of Gibraltar, then the commander, master, or other person having the charge or command thereof shall immediately proceed to such place as his Majesty, his heirs or successors, by and with the advice of his or their privy council, shall from time to time direct and appoint; where being arrived, he shall make known his case to some officer of the customs there, who shall with all possible speed send intelligence thereof to the commissioners of the customs in the port of London, to the end that such precautions may be used to prevent the spreading of the infection, as the case shall require;

and the said vessel shall there remain until directions shall be given thereto by the lords or others of his Majesty's privy council, or any two or more of them; nor shall any of the crew or passengers on board thereof go on shore;

and such master and every other person on board such vessel shall obey such directions as he shall receive from the lords and others of his Majesty's privy council, or any two or more of them as aforesaid;

Penalty for
disobeying
regulations,
100*l*.

and the said commander, master, or any other person on board such vessel as aforesaid, who shall not act conformably to the provisions and regulations herein directed, or shall act in disobedience to such directions as shall be received on board such vessel from the lords or others of the privy council, or any two or more of them as aforesaid, shall forfeit the sum of one hundred pounds.

Masters of
vessels liable
to quarantine
to make
signals on
meeting other
vessels at
sea, or while
within two
leagues of the
United King-
dom or Guern-
sey, etc., on
penalty of
100*l*.

8. * * * * * every commander, master, or other person, having the charge of any vessel liable to the performance of quarantine, shall be and is hereby required, at all times when such vessel shall meet with any other vessel at sea, or shall be within two leagues of the coast of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, to hoist a signal to denote that his vessel is liable to the performance of quarantine, which signal shall,¹ in the day-time, if the said vessel shall have a clean bill of health, a large yellow flag, of six breadths of bunting, at the maintop mast-head, and if such vessel shall not have a clean bill of health, then a like yellow flag, with a circular mark or ball, entirely black, in the middle thereof, whose diameter shall be equal to two breadths of bunting;

and in the night-time the signal shall in both cases be a large signal lantern; with a light therein (such as is commonly used on board his Majesty's ships of war), at the same mast-head;

¹ The word "be" is omitted in the Parliament Roll.

(Secs. 9-10.)

and such commander, master, or other person shall keep such signals respectively, as the case shall be, hoisted during such time as the said vessel shall continue within sight of such other vessel, or within two leagues of the the said coasts or islands, and while so in sight, or within such distance, until such vessel so liable to quarantine as aforesaid shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof ;

on failure whereof such commander, master, or other person, having charge of such ship or vessel so liable to the performance of quarantine, shall forfeit and pay for every such offence the sum of one hundred pounds.

9. * * * * every commander, master, or other person, having the charge of any vessel on board whereof the plague or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects shall actually be, shall be and is hereby required at all times when such vessel shall meet with any other vessel at sea, or shall be within two leagues of the coast of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, to hoist a signal to denote that his vessel has the plague or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects actually on board thereof, which signal shall be in the day-time a flag of yellow and black, borne quarterly, of eight breadths of bunting, at the maintop mast-head ;

Masters of vessels to hoist certain signals when plague or infectious disease is on board, on penalty of 100*l*.

and in the night-time, the signal shall be two large signal lanthorns, such as are commonly used on board of his Majesty's ships of war, one over the other, at the same mast-head ;

and such commander, master, or other person shall keep such signal hoisted during such time as the said vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall continue within sight of such other vessel, or within two leagues of the coasts or islands aforesaid, while so in sight or within such distance, until such vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof ;

on failure thereof such commander, master, or other person having charge of such vessel shall forfeit and pay for every such offence the sum of one hundred pounds.

10. * * * * if any commander, master, or other person, having the charge or command of any vessel, and knowing that the same is not

Penalty on persons hoisting signals

(Secs. 11-12.)

when not
liable, 50*l*.

liable to the performance of quarantine, shall hoist such signal as aforesaid, or either of them, by day or night respectively, such commander or other person as aforesaid shall forfeit and pay the sum of fifty pounds.

Masters of
vessels, on
their arrival
from foreign
parts, to give
to the pilots
an account
of the places
at which they
shall have
loaded and
touched.

11. * * * * every commander, master, or other person, having the charge of any vessel coming from foreign parts, shall give to the pilot who shall go on board such vessel a written paper, containing a true account of the names of the place and country at which such vessel shall have loaded, and also of all the places at which any such vessel shall have touched, on the homeward voyage, on pain of forfeiting the sum of one hundred pounds for any neglect or refusal to give such paper, or for any false representation or wilful omission therein ;

Pilots to give
notice of
proclamation
or order in
council re-
quiring
performance
of quarantine.

and if by any proclamation or order of his Majesty in council, made after the departure of any vessel from the United Kingdom and the said islands, and then in force, vessels coming from any place mentioned in any such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander, or other person aforesaid, of such vessel on pain of forfeiting the sum of one hundred pounds for any neglect therein ;

Master there-
upon to hoist
the proper
signal.

and such commander or other person shall thereupon hoist a proper signal, according to the provisions of this Act, and under the penalties in this Act contained for any neglect or refusal in respect of hoisting such signals.

Master to give
notice of
articles on
board, on
penalty of
50*l*, and pilot
to give notice
if any of them
are liable to
quarantine, on
penalty of
100*l*.

12. * * * * every commander, master or other person, having the charge of any vessel coming from foreign parts which shall not be liable to quarantine in respect of the place from whence such vessel comes, shall give to the pilot who shall go on board of such vessel a written paper, containing a true account of the different articles composing the cargo of such vessel, on pain of forfeiting the sum of fifty pounds for any neglect or refusal to give such paper, or for any false representation or wilful omission therein ;

and if by any proclamation or order of his Majesty in council then in force vessels having on board any of the articles mentioned in such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander or other person having the charge of such vessel, on pain of forfeiting one hundred pounds for any neglect therein, and such commander or other person shall thereupon hoist a signal, according to the provisions and under the respective penalties in this Act contained for any neglect or refusal in respect of hoisting such signals ;

Master there-
upon to hoist
the proper
signal.

(Secs. 13-14.)

and in case any pilot shall bring or cause to be brought or conducted any vessel liable to the performance of quarantine into any place which is not or shall not be specially appointed for the reception of vessels so liable after receiving such paper as aforesaid, whereby it shall have been made it appear that such vessel was liable to the performance of quarantine, or without requiring and receiving such paper as aforesaid, unless compelled thereto by stress of weather, adverse winds, or accidents of the sea, such pilot shall for every such offence forfeit and pay the sum of two hundred pounds.

Penalty on pilots conducting vessels liable to quarantine to any other place than that appointed for their reception after receiving notice, or not requiring notice, 200*l*.

13. * * * * if any pilot being on board, or any commander, master, or other person having the charge, of any vessel coming from foreign parts, whether such vessel shall be liable to quarantine or not, shall be required by any officer of the customs, authorized to act in the service of quarantine, to bring to such vessel, to the end that the commander, master, or other person having the charge thereof may be interrogated, according to the provisions of this Act, and shall neglect or refuse to bring to such vessel, as soon as it can be done with safety, in obedience to such requisition, every such pilot, commander, master, or other person having the charge of any such vessel shall for every such offence forfeit and pay the sum of one hundred pounds.

Pilot, etc., to bring to at request of officer of customs, on penalty of 100*l*.

14. [*Recital.*] When any country or place shall be known or suspected to be infected with the plague or other infectious disease or distemper as aforesaid, or when any order or orders shall be made by his Majesty in council concerning quarantine and the prevention of infection as aforesaid,

Power to superintendents of ports, or officers of customs, to inquire whether vessels entering any port be actually infected, or liable to order touching quarantine.

then and in such case, as often as any vessel shall attempt to enter into any port or place in the United Kingdom, or of the isles of Guernsey, Jersey, Alderney, Sark, or Man, whether such port shall have been appointed for the performance of quarantine or not, the superintendent or assistant at such port or place, or if not, the principal officer of his Majesty's customs at such port or place, or such officer of the customs as shall be authorized to act in that behalf, shall go off to such vessel, and shall, at a convenient distance from such vessel, demand of the commander, master, or other person having charge of such vessel, and such commander, master, or other person shall, upon such demand, give a true answer in writing or otherwise, and upon oath or not upon oath, according as he shall by such superintendent or his assistant, or other officer of the customs authorized as aforesaid, be required, to all such questions or interrogatories as shall be put to him by virtue and in pursuance of such regulations and directions as his Majesty by order in council shall be pleased to prescribe;

and in case such commander or master or other person having charge of such vessel shall, upon such demand made as aforesaid, refuse to make a

Masters of vessels refusal.

(Secs. 15-16.)

ing to answer true discovery in any of the particulars concerning which he shall be interrogated in manner aforesaid, or, in case he shall not be required to answer such questions or interrogatories upon oath, shall give a false answer to any such question or interrogatory as aforesaid, such commander, master, or other person having charge of such vessel for every such offence shall forfeit and pay the sum of two hundred pounds.

Vessels subject to quarantine arriving at any other port than that at which it ought to be performed, may be forced to repair to the appointed place.

15. * * * * in case it shall appear, upon such examination or otherwise, that such vessel is under such circumstances as shall render it liable to perform quarantine, and that the port or place where it so arrived, or at which it attempts to enter as aforesaid, is not the port or place where it ought to perform quarantine, in which case it shall and may be lawful to and for the officers of any of his Majesty's ships of war, or of any of his Majesty's forts or garrisons, and all other his Majesty's officers, upon notice thereof given to them or any of them respectively, and to and for any other person or persons whom they shall call to their aid and assistance, and such officers and other persons are hereby required, to oblige such vessel to go and repair to such place as hath been or shall be appointed for performance of quarantine, and to use all necessary means for that purpose, either by firing of guns upon such vessel, or by any other kind of necessary force whatsoever;

Masters of vessels that have touched at infected places, etc., omitting to disclose same, or omitting to hoist the prescribed signal, to forfeit 300*l*.

and in case any such vessel shall come from or shall have touched at any place infected by the plague or such other infectious disease or distemper as aforesaid, or shall have any person on board actually infected with the plague or other such infectious disease or distemper as aforesaid and the commander, master, or other person having charge of such vessel knowing that the place from whence he came or at which he had touched as aforesaid was infected with the plague or such other infectious disease or distemper, or knowing some person on board to be actually infected with the plague or such other infectious disease or distemper as aforesaid, shall refuse or omit to disclose the same upon such examination as aforesaid, or shall wilfully omit to hoist the signal herein-before directed, to denote that his vessel is liable to the performance of quarantine, at the times and on the occasions herein directed with respect to the same, such commander, master, or other person having charge of such vessel shall forfeit the sum of three hundred pounds.

Commanders to deliver up bills of health, manifests, and log book to the superintendent of quarantine on penalty of 100*l*.

16. * * * * every commander, master or other person having charge of any vessel which shall be ordered to perform quarantine as aforesaid, shall forthwith, after his arrival at the place appointed for the performance of quarantine, deliver on demand to the superintendent of quarantine or his assistant, or other officer of the customs authorized to act

(Secs. 17-18.)

in that behalf, and which superintendent, assistant, or other officer as aforesaid is hereby required to make such demand, his bill of health and manifest, together with his log book and journal, under pain of forfeiting the sum of one hundred pounds if he shall wilfully refuse or neglect so to do.

17. * * * * if any commander, master, or other person, having charge of any vessel liable to perform quarantine, and on board of which the plague or other infectious disease or distemper shall not then have appeared, shall himself quit or shall knowingly permit or suffer any seaman or passenger coming in such vessel to quit such vessel, by going on shore, or by going on board any other vessel or boat, before such quarantine shall be fully performed, unless by such licence as shall be granted by virtue of any order in council to be made concerning quarantine as aforesaid, or in case any commander or other person having charge of such vessel shall not, within a convenient time after due notice given for that purpose, cause such vessel and the lading thereof to be conveyed into the place or places appointed for such vessel and lading to perform quarantine;

*Penalty on masters, etc., quitting vessels liable to quarantine, or permitting persons to quit them, or not conveying the same or the cargo to the appointed places, 400*l*.*

then and in every such case every such commander, master, or other person as aforesaid, for every such offence shall forfeit and pay the sum of four hundred pounds;

and if any such person coming in any such vessel liable to quarantine (or any pilot or other person going on board the same, either before or after the arrival of such vessel at any port or place in the United Kingdom, or the islands aforesaid), shall, either before or after such arrival, quit such vessel, unless by such licence as aforesaid, by going on shore in any port or place in the United Kingdom, or the islands aforesaid, or by going on board any other vessel or boat, with intent to go on shore as aforesaid before such vessel so liable to quarantine as aforesaid shall be regularly discharged from the performance thereof, it shall and may be lawful for any person whatsoever, by any kind of necessary force, to compel such pilot or other person so quitting such vessel so liable to quarantine to return on board the same;

*Persons coming in or going on board such vessels, and quitting them before they are discharged from quarantine, may be forced to return, and shall be liable to imprisonment for six months, and to forfeit 300*l*.*

and every such pilot or other person so quitting such vessel so liable to quarantine shall for every such offence suffer imprisonment for the space of six months, and shall forfeit and pay the sum of three hundred pounds.

18. And whereas disobedience or refractory behaviour in persons under quarantine or liable to the performance of quarantine, or in other persons who may have had any intercourse or communication with them, may be attended with very great danger to his Majesty's subjects:

Be it further enacted, that all persons liable to perform quarantine, and all persons having had any intercourse or communication with them, whether

Persons under or liable to quarantine, or

(Sec. 19.)

persons having intercourse with them, shall be subject to the orders of the superintendent of quarantine or the principal officer of customs, and may be compelled to obey their orders.

in vessels or in a lazaret or elsewhere, shall be subject, during the said quarantine, or during the time they shall be liable to quarantine, to such orders as they shall receive from the superintendent of quarantine, or his assistant, or from the principal officer of the customs at any port or place where there is no such superintendent or assistant, or from any other officer of the customs authorized to act in that behalf;

and the said officers are hereby empowered and required to enforce all necessary obedience to the said orders, and in case of necessity to call in others to their assistance, and all persons so called in are hereby required to assist accordingly;

and such officers shall and they are hereby empowered and required to compel all persons liable to perform quarantine as aforesaid, and persons having had any intercourse or communication with them, to repair to such lazaret, vessel, or place, and to cause all goods, wares, and merchandize, and other articles, comprized within any such orders to be made as last aforesaid, to be conveyed to such lazaret, vessel, or place, duly appointed in that behalf, in such manner and according to such directions as shall be made by order of his Majesty in council as aforesaid, or of the lords or others of the privy council or of any two or more of them;

and if any person or persons liable to perform quarantine as aforesaid or any person or persons having had any intercourse or communication with him, her, or them, shall wilfully refuse or neglect to repair forthwith, when required and directed so to do by such officers as aforesaid, to the said lazaret, vessel, or place duly appointed in that behalf, or having been placed in the said lazaret, vessel, or place, shall escape or attempt to escape out of the same before quarantine duly performed, it shall and may be lawful to and for the said quarantine officers, and also the watchmen and other persons appointed to see quarantine performed, and each of them, and they are hereby respectively required, by such necessary force as the case shall require, to compel every such person so refusing or neglecting as aforesaid, and every such person so escaping or attempting to escape as aforesaid, to repair or return to such lazaret, vessel, or place so appointed as aforesaid;

Persons refusing to repair to the lazaret or vessels, or escaping, or forfeit 200l.

and every person so refusing or neglecting to repair forthwith as aforesaid to the said lazaret, vessel, or place, and also every person actually escaping as aforesaid, shall forfeit the penalty of two hundred pounds.

Persons quitting vessels liable to perform quarantine, etc., may be arrested.

19. * * * * it shall be lawful for any constable, headborough, tithingman, or other peace officer, or any other person, to seize and apprehend any person that shall, contrary to the provisions of this Act, have quitted or come on shore from any vessel liable to perform quarantine, or who shall have

(Secs. 20-21.)

escaped from or quitted any vessel under quarantine or from any lazaret, vessel, or place appointed in that behalf, for the purpose of carrying such person before any justice of the peace or magistrate ;

and it shall be lawful for any such justice of the peace or magistrate to grant his warrant for the apprehending and conveying of any such person to the vessel from which he or she shall have come on shore, or to any vessel performing quarantine, or lazaret, from which he or she shall have escaped, or for the confining of any such person in any such place of safe custody (not being a public gaol), and under such restrictions as to having any communication with any other persons, as may in the discretion of any justice of the peace or magistrate (calling to his aid, if he shall see fit, any medical person) appear to be proper, until such person can be safely and securely conveyed to some place appointed for the performance of quarantine, or until directions can be obtained from the privy council as to the disposal of any such person, and to make any further order or grant any further warrant that may be necessary in that behalf.

20. And whereas it may be necessary for the public security to prevent all communication whatever with vessels performing quarantine :

Be it therefore further enacted, that it shall and may be lawful to and for his Majesty, his heirs or successors, by his or their order or orders in council, notified by proclamation or published in the London Gazette, to prohibit all persons, vessels, and boats whatsoever from going, under any pretence whatsoever, within the limits of any station which by any order or orders in council as aforesaid has been or may be assigned for the performance of quarantine ;

and if any person whatsoever, after such notification or publication of any such order or orders in council, shall presume, under any pretence whatsoever, to go with any vessel or boat within the limits of any such station, he or she shall for every such offence forfeit and pay the sum of two hundred pounds.

21. * * * * if any officer of his Majesty's customs, or any other officer or person whatsoever, to whom it doth or shall appertain to execute any order or orders made or to be made concerning quarantine, or the prevention of infection, and notified as aforesaid, or to see the same put in execution, shall knowingly and wilfully embezzle any goods or articles performing quarantine, or be guilty of any other breach or neglect of his duty in respect of the vessels, persons, goods, or articles performing quarantine, every such officer or person so offending shall forfeit such office or employment as he may

and may by order of a justice be conveyed to the vessel, etc., or kept in custody till properly disposed of.

Intercourse with stations allotted for quarantine of vessels may be prohibited by order in council.

Penalty on persons embezzling goods performing quarantine, neglecting or deserting their duty, or permitting persons, vessels, etc., to depart without authority, or

23. * * * * after quarantine shall have been duly performed by any vessel, person or persons obliged to perform quarantine as aforesaid, according to this Act, and to such order or orders made as aforesaid, and upon proof to be made by the oaths of the master or other person having charge of such vessel, and of three or more of the persons belonging thereto, or upon proof to be made by the oaths of two or more credible witnesses before the collector or principal officer of the customs at the port where such quarantine shall be performed, or at the port nearest thereto, or before the superintendent of quarantine, or his assistant at the quarantine station, or before any justice of the peace living near to the port or place, or when such quarantine shall have been performed within any of the said isles of Guernsey, Jersey, Alderney, Sark, or Man, before any two jurats or magistrates of any

(Secs. 24-25.)

of the said isles respectively, that such vessel, and all and every such person and persons respectively, have duly performed quarantine as aforesaid, and that the vessel and all and every person and persons are free from infection, and after producing a certificate to that purpose, signed by the chief officer who superintended the quarantine of the said vessel, or person acting for him,

then and in the said respective cases such collector or principal officer of the customs, or the superintendent of quarantine, or his assistant, or such justice of the peace, or such jurats or magistrates as aforesaid, respectively, are hereby required to give a certificate thereof, and thereupon such vessel, and all and every such person or persons so having performed quarantine, shall be liable to no further restraint or detention upon the same account, for which such vessel, person or persons shall have performed quarantine as aforesaid.

24. * * * * all goods, wares, and merchandize, and other articles Goods liable to perform quarantine shall be opened and aired as directed by order in council, and proof thereof made ; liable to quarantine as aforesaid, shall be opened and aired in such place or places, and for such time, and in such manner, as shall be directed by his Majesty, his heirs and successors, by such order or orders to be made as aforesaid, and after such orders shall have been duly complied with, proof thereof shall be made by the oaths of the master of the lazaret or vessel in which the goods, wares and merchandize and all other articles shall have been opened and aired, and of one of the guardians, or if there be no guardians, then one of the officers authorized by the commissioners of customs to act in the service of quarantine in such lazaret or vessel, or if there be no such officer, then by the oaths of two or more credible witnesses serving in the said lazaret or vessel, before the superintendent of quarantine or his assistant, in case such opening and airing shall be had at a port or place where such superintendent or assistant shall be established, or otherwise before the principal officer of the customs authorized to act in the service of quarantine at such port or place, which oath such superintendent, assistant, or principal officer is hereby authorized to administer ;

and such superintendent, assistant, or principal officer, as the case may be, shall grant a certificate of such proof having been made, and upon production of such certificate to the proper officer of the customs, such goods, wares, and merchandizes, and other articles shall be liable to no further restraint or detention, either at the port or place where such quarantine shall have been performed, or at any other place whereto they be afterwards conveyed.

25. * * * * if any person shall knowingly or wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged or counterfeited, interlined, erased, or altered, any certificate directed or required to be granted by any order of his Majesty, his heirs or successors, in council, now in force Persons forging or uttering false certificates required by order in

(Secs. 26-27.)

council, guilty
of felony.

or hereafter to be made touching quarantine, or shall publish any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited, interlined, erased, or altered, or shall knowingly and wilfully utter and publish any such certificate with intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false, he or she shall be guilty of felony.

Penalty on
persons land-
ing goods, etc.,
from vessels
liable to per-
form quaran-
tine, or re-
ceiving them,
500*l*.; or per-
sons secreting
them for con-
veyance from
vessels per-
forming qua-
rantine, 100*l*.

26. * * * * if any person shall land or unship, or shall move in order to the landing or unshipping thereof, any goods, wares, or merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles, from on board any vessel liable to perform quarantine as aforesaid, or shall knowingly receive the same after they have been so landed or unshipped, every such person shall forfeit and pay the sum of five hundred pounds:

and if any person or persons shall clandestinely convey, or secrete or conceal for the purpose of conveying, any letters, goods, wares, or merchandize or other articles as aforesaid, from any vessel actually performing quaran- tine, or from the lazaret or other place where such goods, wares, merchandize, or other articles as aforesaid shall be performing quarantine, every such person so offending as last aforesaid shall forfeit the sum of one hundred pounds.

His Majesty
in certain
cases may, by
proclamation,
prohibit
vessels under
100 tons
from sailing
from any port
in the United
Kingdom
until bond be
given by the
master not
to touch, etc.,
at any place
mentioned in
such proclama-
tion.

27. * * * * in case it shall at any time happen that any part of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, or France, Spain, or Portugal, or the low countries, shall be infected with the plague, or any other infectious disease or distemper as aforesaid, it shall and may be lawful to and for his Majesty, his heirs and successors, by his or their proclamation, to prohibit or restrain all vessels and boats under the burthen of one hundred tons from sailing or passing out of any port or place of the United Kingdom, or the isles of Guernsey, Jersey, Alderney, Sark, or Man, or any of them, until security be first given by the master of every such vessel or boat respectively, to the satisfaction of the principal officers of the customs, or the chief magistrate of the port or place from whence such vessel or boat shall sail, by bond taken by such officer or magistrate, to the King, his heirs or successors, with sufficient sureties, in the penalty of two hundred pounds, with condition, that if such vessel or boat shall not go to or touch at any country, port, or place, to be mentioned for that purpose in such proclamation, and if neither the master or other person having charge of such vessel or boat, nor any mariner or passenger in such vessel or boat, shall, during the time aforesaid, go on board any other vessel at sea, and such master or other person having charge of such vessel or boat shall no permit or suffer any person or persons to come on board such vessel or

(Secs. 28-31.)

boat at sea from any other vessel, and shall not, during the time aforesaid, receive any goods or merchandize whatsoever out of any other vessel, then such bond shall be void; for the making of which bond no fee or reward whatsoever shall be taken;

and in case any vessel or boat for which such security shall be required by such proclamation shall set sail or pass out of any port or place of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, or any of them respectively, before security be given as aforesaid, every such vessel or boat so sailing or passing out of any port or place contrary to the true intent and meaning of this Act, together with her tackle, apparel, and furniture, shall be forfeited to his Majesty, his heirs and successors, and the master of, and every mariner sailing in such vessel or boat shall severally forfeit and pay the sum of two hundred pounds.

28. * * * * the consuls and vice-consuls of his Majesty, his heirs and successors, shall and are hereby empowered to administer oaths in all cases respecting quarantine, in like manner as if they were magistrates of the several towns or places where they respectively reside.

29. * * * * in all cases wherein by virtue of this Act, or any other Act hereafter to be made touching quarantine, any examination or answer shall be taken or made upon oath, the person who shall be authorized and required to take such examinations and answers shall and may be deemed to have full power and authority to administer such oaths;

and if any person who shall be interrogated or examined shall wilfully swear falsely to any matter concerning which such person shall depose or make oath on such examination, or in such answer, or if any person shall procure any other person so to do, he or she so swearing falsely, or procuring any other person so to do, shall be deemed to have been guilty of and shall be liable to be prosecuted for perjury or subornation of perjury, as the case may be, and shall suffer the pains, penalties, and punishments of the law in such case respectively made and provided.

30. * * * * all superintendents of quarantine at the several ports, and their assistants, shall and may be appointed by any instrument signed by the commissioners of customs for the time being; and everything required to be done and performed by the superintendent of quarantine, or his assistant, may, in case of the absence or sickness of such superintendent or assistant, be done and performed by such principal officer of the customs as shall be authorized to act in that behalf.

31. * * * * the publication in the London Gazette of any order in council, or of any order by any two or more of the lords or others of his Majesty's privy council, made in pursuance of this Act, or his

Penalty for sailing without giving such security, forfeiture of vessel, etc.

Power to consuls, etc., to administer oaths.

Persons authorized to take examinations may administer oaths, and persons swearing falsely or procuring others so to do shall be deemed guilty of perjury, etc.

Superintendents at ports to be appointed by commissioners of customs. Principal officer of customs may act in absence, etc., of superintendent. Publication in the London Gazette of orders in

(Secs. 32-34.)

council, etc.,
sufficient
notice.

Majesty's royal proclamation made in pursuance of the same, shall be deemed and taken to be sufficient notice to all persons concerned of all matters therein respectively contained.

Recovery and
application of
penalties.

32. * * * * all forfeitures and penalties that shall be incurred by reason of any offence committed against this Act shall and may be recovered by suit in any of his Majesty's courts of record in England or Ireland, in which no essoign or wager of law or more than one imparlance shall be granted; or in Scotland, by summary action in the Court of Session, or by prosecution before the Court of Justiciary there; or by suit in any of his Majesty's courts in the islands of Guernsey, Jersey, Alderney, Sark, or Man; and every such forfeiture and penalty shall belong and be given, two-thirds to the person who shall inform and sue for the same, and the remainder to his Majesty, his heirs and successors.

In whose
name actions
for penalties
in England,
Ireland, or
Scotland must
be prosecuted.

33. Provided always * * * * that it shall not be lawful for any person or persons whatsoever to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered, or filed, any action, bill, plaint, information, or prosecution, or actions, bills, plaints, informations, or prosecutions, in any of his Majesty's courts in England, Ireland, or Scotland, or any proceeding or proceedings before any justice of the peace of any county, riding, division, city, town, stewartry, or place, for the recovery of any fine, penalty or forfeiture, fines, penalties, or forfeitures, incurred by reason of any offence committed against this Act, or against any order or orders made by his Majesty, his heirs or successors, in council, or by two or more of the lords or others of his Majesty's privy council as aforesaid, unless the same be commenced, prosecuted, entered, or filed in the names of his Majesty's attorney general in England or Ireland or advocate in Scotland respectively, or under the direction of the commissioners of the customs, and in the name or names of some officer or officers of the customs in England, Ireland, or Scotland respectively;

and if any action, bill, plaint, information, or prosecution, actions, bills, plaints, informations, or prosecutions, or any proceeding or proceedings before any justice as aforesaid, shall be commenced, prosecuted, entered, and filed in the name or names of any other person or persons than is in that behalf before mentioned, the same shall be and are hereby declared to be null and void.

In prosecu-
tions by
officers of
the customs,

34. Provided also * * * * that in case any prosecution, suit, complaint, or other proceeding as aforesaid shall be commenced or depending by any officer or officers of the customs, for the recovery of any

(Secs. 35-36.)

fine, penalty, or forfeiture, fines, penalties, or forfeitures, incurred by reason of any offence committed against this Act, or against any order or orders made by his Majesty, his heirs or successors, in council, or by any two or more of the lords or others of his Majesty's privy council as aforesaid, it shall and may be lawful for his Majesty's attorney general in England or Ireland or advocate in Scotland respectively to stop all further proceedings therein, as well with respect to the share of such fine, penalty, or forfeiture, fines, penalties, or forfeitures, to which any such officer or officers shall or may claim to be entitled as to the share thereof belonging to his Majesty, if upon consideration of the circumstances under which any such fine, penalty, or forfeiture, fines, penalties, or forfeitures may be incurred, it shall appear to them respectively to be fit and proper so to do.

35. * * * * all offences committed against any of the provisions of this Act, for which no specific penalty, forfeiture, or punishment is provided by this Act, shall and may be tried, heard, and determined before any three justices of the peace of the county, riding, division, city, or place where such offence or disobedience shall happen ;

Offences for which no specific penalty is provided may be determined before three justices, who may fine or imprison.

and if any person shall be convicted of any such offence or disobedience, he or she shall be liable to such forfeiture and penalty, not exceeding the sum of five hundred pounds for any offence, or to such imprisonment, not exceeding twelve months for any one offence, as shall in the discretion of the three justices who shall have heard and determined the same be judged proper ;

and such forfeiture and penalty shall be paid, two-thirds to the person suing for the same, and the remainder to his Majesty, to be applied as the proceeds of other forfeitures and penalties are herein-before directed to be applied.

Application of penalties.

36. * * * * in any prosecution, suit, or other proceedings against any person or persons whatsoever, for any offence against this Act, or any Act which may hereafter be passed concerning quarantine, or for any breach or disobedience of any order or orders which shall be made by his Majesty, his heirs or successors, with the advice of his privy council, concerning quarantine and the prevention of infection, and notified or published as aforesaid, or of any order or orders made by two or more of the lords or others of the privy council as aforesaid, the answer or answers of the commander, master, or other person, having charge of any vessel, to any question or interrogatories put to him by virtue and in pursuance of this Act, or of any Act which may hereafter be passed concerning quarantine, or of any such order or orders as aforesaid, may and shall be given and received as evidence, so far as the same relates or relate to the place from which such vessel shall come, or to the place or places at which such vessel touched in the course of the voyage ;

In prosecutions, etc., answers of persons having the charge of vessels shall be received as evidence so far as relates to the places from which vessels came, or at which they touched and the having been directed to perform quarantine shall be received as evidence that vessels

(Sec. 4.)

were liable, unless in either case proof be made to the contrary, and a vessel's being put under quarantine shall be proof of such vessel being liable to perform it.

and where any vessel shall have been directed to perform quarantine by the superintendent of quarantine or his assistant, or, where there is no such superintendent or assistant, by the principal officer of the custom at any port or place, or other officer of the customs authorized to act in that behalf, they having been so directed to perform quarantine may and shall be given and received as evidence that such vessel was liable to quarantine, unless satisfactory proof shall be produced by the defendant in any such prosecution, suit, or other proceeding, to show that the vessel did not come from or touch at any such place or places as is or are stated in the said answer or answers, or that such vessel, although directed to perform quarantine, was not liable to the performance thereof; and where any such vessel shall have in fact been put under quarantine at any port or place by the superintendent of quarantine or his assistant, or other officer of the customs authorized as aforesaid to act in that behalf, and shall actually be performing the same, such vessel shall in any prosecution, suit, or other proceeding, against any person or persons whatever, for any offence against this Act or any other Act which may hereafter be passed concerning quarantine and the prevention of infection, or any order or orders which shall be made by his Majesty in council, or any two or more of the lords or others of his privy council as aforesaid, be deemed and taken to be liable to quarantine, without proving in what manner or from what circumstance such vessel became liable to the performance thereof.

37. [*Rep. as to U. K. 56 & 57 Vict., c. 61; omitted as being inapplicable to India.*]

THE INDIAN SALARIES AND PENSIONS ACT, 1825.¹

(6 Geo. 4, c. 85.)

An Act for further regulating the Payment of the Salaries and Pensions to the Judges of His Majesty's Courts in India and the Bishop of Calcutta.

[5th July, 1825.]

[*Preamble recites establishment of supreme courts of judicature at Fort William in Bengal under 13 Geo. 3, c. 63, at Madras under 39 & 40 Geo. 3, c. 79, and at Bombay under 37 Geo. 3, c. 142.*]

[*Whole Act, except ss. 4, 5, 15, rep. 53 & 54 Vict., c. 33 (S. L. R.); S. 6 rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

4. * * * * when and as often as it shall happen that in consequence of the vacancy of the office of chief justice in any of the said supreme

Judge executing the office of chief

¹ For digest and notes, see *Ilbert's Government of India*, pp. 298-299.

(Sec. 5.)

courts of judicature at Fort William in Bengal, or at Madras or Bombay, respectively, one of the puisne judges of the said courts respectively shall preside for and exercise the office of such chief justice, such puisne judge so acting as chief justice during a vacancy, and until the arrival of the person appointed to succeed to the office of chief justice, shall be entitled to receive, in lieu of his proportion of salary as a puisne judge of such court, such a proportion of salary (and no more) as would have become due to such chief justice during the period while the vacancy shall be supplied by such puisne judge as aforesaid; * * * * *

justice at
Fort William,
Madras, or
Bombay to be
entitled to
salary of chief
justice.

5. * * * * * when and as often as it shall hereafter happen, that any chief justice or puisne judge of any of the said supreme courts of judicature at Fort William in Bengal, Madras, or Bombay, * * * or any bishop of Calcutta, shall have departed or shall hereafter depart this life, either during the voyage to India or within six calendar months next after the day when he shall have arrived in India for the purpose of taking upon him the office of such chief justice or puisne judge, * * * or bishop the court of directors of the said united company shall and they are hereby required to pay, or direct and cause to be paid, out of the territorial revenues from which the salary of such chief justice or puisne judge, * * * or bishop, so dying shall be payable to the legal personal representatives of such chief justice or puisne judge, * * * or bishop so dying as aforesaid, such sum or sums of money as shall, together with the sum or sums paid to or drawn by such chief justice or puisne judge, * * * or bishop, in respect of his salary, make up the full amount of one year's salary of the office to which he shall have been appointed;

Provision for
payment of
one year's
salary to
representa-
tives of any
judge or
bishop, etc.,
who shall die
either during
his voyage,
or within six
months after
his arrival,
etc.;

and * * * * * when and as often as it * * * shall hereafter happen that any such chief justice or puisne judge, * * * or bishop shall depart this life while in possession of such office, and after the expiration of six calendar months from the time of his arrival in India for the purpose of taking upon him the office of chief justice, puisne judge, * * * or bishop then and in all and every of such cases the said court of directors shall and they are hereby required to pay, or direct and cause to be paid, out of the territorial revenues from which the salary of such chief justice, puisne judge, * * * or bishop so dying shall be payable, to the legal personal representatives of such chief justice or puisne judge, recorder, or bishop respectively so dying as aforesaid, over and above what may have been due to such chief justice or puisne judge, * * * or bishop respectively at the time

and for pay-
ment of half
a year's salary
to representa-
tives of any
judge, etc.,
dying after
such six
months.

¹ Words as to Recorder of Prince of Wales' Island omitted. See repeal, by 41 & 42 Viet., c. 79 (S. L. R.).

146 *The Indian Salaries and Pensions Act, 1825.* (Sec. 15.) [6 Geo. 4, c. 85.

The East India Officers Act, 1826. (Sec. 3.) [7 Geo. 4, c. 56.

of his death, a sum equal to the amount of six calendar months' salary of the office of such chief justice or puisne judge, * * ¹ or bishop respectively.

* * * * *

53 Geo. 3,
c. 155.

4 Geo. 4, c. 71,
ss. 2, 3.

15. And whereas under and by virtue of an Act made and passed in the fifty-third year of the reign of his late Majesty King George the Third, and of another Act made and passed in the fourth year of the reign of his present Majesty, provision is made for granting a pension to the bishop of Calcutta, under the limitations therein contained, and it is expedient to make further provision in respect thereof;

Pension to
bishop of
Calcutta on
resignation.

Be it further enacted, that it shall and may be lawful for his Majesty, * * * in manner in the said Act of the fifty-third year of the reign of his late Majesty mentioned, to grant to any such bishop, who shall have exercised within the limits of the charter of the said united company the office of bishop of Calcutta for five years, a pension not exceeding one half of the sum which his Majesty, by the said Act of the fifty-third year of the reign of his late Majesty, is empowered to grant to any such bishop;

and also to grant to any such bishop, who shall have exercised within the limits aforesaid the said office of bishop of Calcutta for seven years, a pension not exceeding two-thirds of the sum which his Majesty, by the said Act of the fifty-third year of his late Majesty's reign, is empowered to grant to any such bishop.

* * * * *

THE EAST INDIA OFFICERS' ACT, 1826.²

(7 Geo. 4, c. 56.)

An Act to suspend the Provisions of an Act of His late Majesty, respecting the Appointment of Writers in the Service of the East India Company, and to authorize the Payment of the Allowances of the Civil and Military Officers of the said Company dying while absent from India.

[26th May, 1826.]

[Whole Act, except s. 3, rep. 36 & 37 Vict., c. 91 (S. L. R.).]

Representa-
tives of officers
dying during
a temporary
absence from
their stations
may receive
the salaries

3. [Recital of 53 Geo. 3, c. 52, s. 37 in part]. It shall and may be law-
ful to and for the said company to cause payment to be made to the repre-
sentatives of officers in their service, civil or military, who having quit-
ted or left their stations, and not having proceeded or intended to pro-
ceed to Europe, but intending to return to their stations, have died, or may

¹ Words as to Recorder of Prince of Wales' Island omitted. See repeal by 41 & 42 Vict., c. 79 (S. L. R.).

² For digest and notes, See Ilbert's *Government of India*, p. 299.

(Secs. 1-7.)

hereafter happen to die, during their temporary absence, within the limits of the said company's charter, or at the Cape of Good Hope, of such salaries and allowances, or such portion of salaries or allowances, as the officers so dying would have been entitled to if they had returned to their stations.

to which such officers would have been entitled if they had returned to their stations.

* * * * *

THE CRIMINAL LAW (INDIA) ACT, 1828.

(9 Geo. 4, c. 74.)

An Act for improving the Administration of Criminal Justice in the East Indies.

[25th July, 1828.]

[Whole Act, except portions printed, rep. 53 & 54 Vict., c. 33 (S. L. R.); Rep. also as to B. I. by X of 1875, s. 2 and sch.]

[Preamble.]

1. * * * This Act * * * * * shall extend to all persons and all places, as well on land as on the high seas, over whom or which the criminal jurisdiction of any of his Majesty's courts of justice erected or to be erected within the British territories under the government of the United Company of Merchants of England trading to the East Indies does or shall hereafter extend.

From the 1st of March, 1829, this Act to take effect throughout the jurisdiction of the King's Courts in the East Indies.

* * * * *

7. * * * * * If any person shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any statute or statutes made or to be made, the person so counselling, procuring or commanding shall be deemed guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished;

Accessory to felony before the fact may be tried as such, or as a substantive felon, by any court which has jurisdiction to try the principal felon although the offence be committed on the seas or abroad.

and the offence of the person so counselling, procuring, or commanding howsoever indicted may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the high seas, or at any place on land, whether within his Majesty's dominions or without;

and in case the principal felony and the offence of counselling, procuring, or commanding, shall have been committed in different places, the last-men-

If the offences of principal and accessory be committed in different places, access-

(Secs. 8-26.)

sory may be tried in any of the King's courts in India having jurisdiction.

tioned offence may be inquired of, tried, determined, and punished in any of his Majesty's courts of justice within the British territories under the government of the said United Company having jurisdiction to try either of the said offences:

No person to be tried twice for the same offence.

Provided always, that no person who shall be once duly tried for any such offence, whether as any accessory before the fact or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.

Accessory after the fact may be tried by any court which has jurisdiction to try the principal felon.

8. * * * * if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the high seas or at any place on land, whether within his Majesty's dominions or without;

If the offences of principal and accessory be committed in different places, accessory may be tried in any court having jurisdiction. No person to be tried twice for the same offence.

and in case the principal felony, and the act by reason whereof any person shall have become accessory, shall have been committed in different places, the offence of such accessory may be inquired of, tried, determined, and punished in any of his Majesty's courts of justice within the British territories under the government of the said United Company, having jurisdiction to try either of the said offences:

Accessory may be prosecuted after conviction of the principal though the principal die or be pardoned, or delivered before attainder.

Provided always, that no person who shall be once duly tried for any offence of being an accessory shall be liable to be again indicted or tried for the same offence.

9. * * * * if any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder;

and every such accessory shall suffer the same punishment if he or she be in anywise convicted as he should have suffered if the principal had been attainted.

* * * * *

Admiralty offences.

25. * * * * all offences prosecuted in any of his Majesty's courts of Admiralty shall, upon every first and subsequent conviction, be subject to the same punishments, whether of death or otherwise, as if such offence had been committed upon the land.

Rule for interpreting all

26. * * * * wherever this or any other statute relating to any offence, whether punishable upon indictment or summary conviction, in describ-

(Sec. 56.)

11 Geo. 4 & 1 W. 4, c. 46.]

The Illusory Appointments Act, 1830.

(Sec. 1.)

ing or referring to the offence or the subject matter thereof or the offender, or the party affected or intended to be affected by the offence, shall use words importing the singular number or the masculine gender only, yet the statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction;

and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved.

* * * * *

56. * * * * * where any person, being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon the land or at sea, within the limits of the charter of the said United Company, shall die of such stroke, poisoning, or hurt at any place without those limits, or being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon land or at sea, shall die of such stroke, poisoning, or hurt at any place within the limits aforesaid, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined and punished by any of his Majesty's courts of justice within the British territories under the government of the said United Company, in the same manner in all respects, as if such offence had been wholly committed within the jurisdiction of the court within the jurisdiction of which such offender shall be apprehended or be in custody.

criminal statutes.

Provision for the trial of murder and manslaughter, where the cause of death only but not the death, or where the death only, but not the cause of death, happens within the limits of the East India Company's charter.

* * * * *

110. [*Rep. except so far as in force in the Straits Settlements, 53 & 54 Vict., c. 33 (S. L. R.).*]

* * * * *

THE ILLUSORY APPOINTMENTS ACT, 1830.¹

(11 Geo. 4 & 1 Will. 4, c. 46.)

An Act to alter and amend the Law relating to Illusory Appointments.

[16th July, 1830.]

[Preamble.]

1. No appointment which from and after the passing of this Act shall be made in exercise of any power or authority to appoint any property, real or

No appointment in exercise of a power

¹ Extended to British India by Act XXIV of 1841, s. 2. See *Chitty's Statutes, Tit. Conveyancing*, p. 28; also *Re Capon's Trusts* (1879), L. R. 10 Ch. D. 484.

shall be impeached in equity as illusory by reason of giving only a nominal share to any object of the power.

personal, amongst several objects, shall be invalid or impeached in equity on the ground that an unsubstantial, illusory, or nominal share only shall be thereby appointed to or left unappointed to devolve upon any one or more of the objects of such power;

but that every such appointment shall be valid and effectual in equity as well as at law, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory or nominal share of the property subjected to such power.

Not to affect any deed which declares the amount of the shares to be appointed;

2. Provided always * * * * that nothing in this Act contained shall prejudice or affect any provision, in any deed, will, or other instrument creating any such power as aforesaid, which shall declare the amount of the share or shares from which no object of the power shall be excluded.

nor to give any other force to any appointment than the same would have had if a substantial share had been appointed or left to devolve as unappointed.

3. Provided also * * * * that nothing in this Act contained shall be construed, deemed, or taken, at law or in equity, to give any other validity, force, or effect, to any appointment, than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of such power.

THE DEBTS RECOVERY ACT, 1830.

(11 Geo. 4 and 1 Will. 4, c. 47.)

An Act for consolidating and amending the Laws for facilitating the payment of Debts out of Real Estate.

[16th July, 1830.]

Infants to make conveyances under order of the court of real estates directed to be sold for payment for debts.

11.¹ * * * * where any suit hath been or shall be instituted in any court of equity for the payment of any debts of any person or persons deceased, to which their heir or heirs, devisee or devisees, may be subject or liable, and such court of equity shall decree the estates liable to such debts, or any of them, to be sold for satisfaction of such debt or debts, and by reason of the infancy of any such heir or heirs, devisee or devisees, an immediate conveyance thereof cannot, as the law at present stands, be compelled, in every such case such court shall direct, and, if necessary, compel such infant or infants to convey such estates so to be sold (by all proper assurances in the law) to the purchaser or purchasers thereof, and in such manner as the said court shall think proper and direct;

and every such infant shall make such conveyance accordingly;

and every such conveyance shall be as valid and effectual to all intents and purposes as if such person or persons, being an infant or infants, was or were at the time of executing the same of the full age of twenty-one years.

¹ S. 11 was extended to British India, by Act XXIV of 1841, s. 4. It alone, therefore, reproduced here. See *Chitty's Statutes*, Tit. Executor, pp. 23-24.

(Sec. 2.)

THE INFANTS' PROPERTY ACT, 1830.¹

(11 Geo. 4 & 1 Will. 4, c. 65.)

An Act for consolidating and amending the Laws relating to property belonging to Infants, Femes Covert, Idiots, Lunatics, and persons of unsound Mind. [23rd July, 1830.]

[Preamble.]

1. [Rep. as to U. K. 36 & 37 Vict., c. 91 (S. L. R.) Omitted as being spent.]

2. And inasmuch as, in order to avoid unnecessary repetition, certain words are used in this Act as describing subjects some of which, according to their usual sense, such words would not embrace :

for the understanding of the sense attached to them in this Act, ^{Rules for the interpretation of this Act.} be it further enacted, that the provisions of this Act shall extend and be understood to extend to and include the several other estates, persons, matters, and things herein-after mentioned; (that is to say,) those relating to land, to any manor, messuage, tenement, hereditament, or real property of whatsoever tenure, and to property of every description transferable otherwise than in books kept by any company or society, or any share thereof or charge thereon, or estate or interest therein; those relating to stock, to any fund, annuity, or security transferable in books kept by any company or society, or to any money payable for the discharge or redemption thereof, or any share or interest therein; those relating to dividends, to interest or other annual produce; those relating to the Bank of England, to the East India Company, South Sea Company or any other company or society established or to be established; those relating to a conveyance, to any release, surrender, assignment, or other assurance, including all acts, deeds, and things necessary for making and perfecting the same; those relating to a transfer, to any assignment, payment, or other disposition; and those relating to a lunatic, to any idiot or person of unsound mind or incapable of managing his affairs; unless there be something in the subject or context repugnant to such construction;

and whenever this Act, in describing or referring to any person, or any land, stock, conveyance, lease, recovery, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals,

¹ So much of this Act as relates to or affects idiots, lunatics, and persons of unsound mind or their property, rep., except so far as relates to Ireland, 16 & 17 Vict., c. 70, s. 1; so far as relates to Ireland, Stat. Law Rev. Act, 1878. See *Chitty's Statutes*, Tit. Infants and Children, p. 4. Extended to British India by Act XXIV of 1841, s. 2.

(Secs. 3-6.)

and several lands, stock, conveyances, leases, recoveries, matters, or things, as well as one land, stock, conveyance, lease, recovery, matter, or thing, respectively, unless there be something in the subject or context repugnant to such construction.

Infants, femes covert, and lunatics may be admitted to copyhold estates by their guardian, committee, or attorney.

3. * * * * where any person being under the age of twenty-one years, or being a feme covert or lunatic, is or shall be entitled by descent or surrender to the use of a last will, or otherwise, to be admitted tenant of any copyhold lands, such person in his or her own proper person, or being a feme covert by her attorney, or being an infant by his guardian or attorney, as the case may require, or being a lunatic by the committee of his estate, shall come to and appear at one of the three next courts, which shall be kept (for the keeping whereof the usual notice shall be given) for the manor whereof such land shall be parcel, and shall there offer himself or herself to the lord or his steward to be admitted tenant to the said land; to make which appearance and to take which admittance in behalf of such infant or lunatic, or feme covert, such guardian, committee, or attorney shall be and is hereby respectively authorized and required.

Femes covert, infants, &c., may appoint attorneys for that purpose.

4. * * * * it shall be lawful for any feme covert, and for any infant who shall have no guardian, and she and he is hereby empowered, by writing under her or his hand and seal respectively, to appoint an attorney or attorneys on her or his behalf, for the purpose of appearing and taking such admittance as aforesaid.

In default of appearance, the lord may appoint an attorney.

5. * * * * in default of such appearance of any infant, feme covert or lunatic in his or her own person, or by his or her guardian, committee, or attorney in that behalf, and of acceptance of such admittance as aforesaid, it shall be lawful for the lord of every such manor, or his steward, after such three several courts have been duly holden for such manor, and proclamations in such several courts been regularly made, to appoint, at any subsequent court to be holden for such manor, any fit person to be attorney for every such infant, feme covert, or lunatic for that purpose only, and by such attorney to admit every such infant, feme covert, or lunatic to the said land, according to such estate as such infant, feme covert, or lunatic shall be legally entitled to therein, and upon every such admittance to impose and set such fine as might have been legally imposed and set if such infant had been of full age, or if such feme covert had been sole and unmarried, and if such lunatic had been of sane mind.

Fines, in what manner demandable.

6. * * * * upon every such admittance of any infant, feme covert or lunatic as aforesaid, the fine imposed and set thereupon shall and may be demanded by the bailiff or agent of the lord of such manor, by a note

(Sec. 7.)

in writing, signed by the lord of such manor or by his steward, to be left with the guardian of such infant or such infant, if he have no guardian, or with such feme covert or her husband, or with the committee of the estate of such lunatic, or with the tenant or occupier of the land to which such infant, feme covert, or lunatic shall have been admitted as aforesaid ;

and if the fine so imposed and set be not paid or tendered to such lord or his steward within three months after such demand made, then it shall be lawful or the lord of such manor to enter into and upon the copyhold land to which any such infant, feme covert, or lunatic shall be so admitted, and to hold and enjoy the same, and to receive the rents, issues, and profits thereof, but without liberty to fell any timber standing thereon, for so long time only and until by such rents, issues, and profits such lord shall be fully paid and satisfied such fine, together with all reasonable costs and charges which such lord shall have been put unto in levying and raising the same, and in obtaining the possession of such copyhold land, although such infant, feme covert, or lunatic shall happen to die before such fine and fines, and the costs and charges aforesaid, shall be raised and collected ;

If not paid, &c., the lord may enter and receive the profits of the copyhold till he is satisfied &c.

of all which rents, issues, and profits so to be received by such lord of such manor or his steward, bailiff, or servant, upon the occasion aforesaid, such lord shall yearly and every year, upon demand to be made by the person who shall be entitled to the surplus of the said rents and profits, over and above what will pay and satisfy such fine and costs and charges, or by the person who shall be then entitled to such copyhold land, give and render a just and true account, and shall pay the same surplus, if any, to such person as shall be entitled to the same.

The lord to account yearly,

7. * * * * as soon as such fine, and the costs, charges and expences aforesaid, shall be fully paid and satisfied, or if, after such seizure and entry of and upon such copyhold land for the purposes aforesaid, such fine and the costs and charges aforesaid, shall be lawfully tendered and offered to be paid and satisfied to the lord of such manor, then and in any of the said cases, it shall be lawful for such infant, feme covert, lunatic, or other person entitled thereto, or the guardian of such infant, the husband of such feme covert, or the committee of such lunatic, to enter upon and take possession of and hold the said copyhold land according to the estate or interest such infant, feme covert, or lunatic shall be lawfully entitled to therein, and the lord of such manor shall and is hereby required in any of the said cases to deliver possession thereof accordingly ;

and to deliver up possession on satisfaction of the fines.

and if such lord, after such fine and the costs and charges aforesaid shall be fully paid and satisfied, or after the same shall have been tendered

(Secs. 8-12.)

or offered to be paid as aforesaid, shall refuse to deliver the possession of the said copyhold land as aforesaid, he or they shall be liable to and shall make satisfaction to the person or persons so kept out of possession for all the damages that he or she shall thereby sustain, and all the costs and charges that he or she shall be put unto for the recovery thereof.

Guardians, husbands, or committees, paying fines, may reimburse themselves out of the rents of the copyhold.

8. * * * where any infant, covert feme or lunatic shall be admitted to any copyhold land, if the guardian of such infant, or husband of such feme covert, or committee of such lunatic, shall pay to the lord of any manor the fine legally imposed and set upon such admittance, and the costs and charges which such lord of such manor shall have been put unto as aforesaid, then it shall be lawful for every guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, to enter into and to hold and enjoy the said land to which such infant, feme covert, or lunatic shall have been so admitted, and receive and take the rents, issues and profits thereof to his and their own use, until thereby such guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, shall be fully satisfied and paid all and every such sum and sums of money as he shall respectively pay and disburse upon the account aforesaid notwithstanding the death of such infants, femes covert, or lunatic shall happen before such sum or sums of money so expended shall or may be so raised and reimbursed.

No forfeiture to be incurred by infant, &c. for not appearing, or refusing to pay fines.

9. Provided always * * * that from and after the passing of this Act no infant, feme covert, or lunatic shall forfeit any copyhold land for his or her neglect or refusal to come to any court to be kept for any manor whereof such land is parcel, and to be admitted thereto, nor for the omission, denial, or refusal of any such infant, feme covert, or lunatic to pay any fine imposed or set upon his or her admittance to any such land.

Fines not warranted by custom, &c., may be controverted.

10. Provided nevertheless * * * that if the fine imposed in any of the cases herein-before mentioned shall not be warranted by the custom of the manor or shall be unlawful, then such infant, feme covert, or lunatic shall be at liberty to controvert the legality of such fine, in such manner as he or she might have done if this Act had not been made.

11. [Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.) Omitted as being inapplicable to India.]

Guardians of minors, &c. in order to the surrender and renewal of leases, may apply to the Court of Chancery, &c., and by order may

12. * * * in all cases where any person, being under the age of twenty-one years, or a feme covert, is or shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for such person under the age of twenty-one years, or for his or her

(Secs. 14-16.)

guardian or other person on his behalf, and for such feme covert, or any person on her behalf, to apply to the Court of Chancery in England, the courts of equity of the counties palatine of * *¹ Lancaster and Durham, surrender such leases, and accept renewals of the same,
 * * *¹ respectively, as to land within their respective jurisdiction, by petition or motion in a summary way;

and by the order and direction of the said courts respectively such infant or feme covert, or his guardian, or any person appointed in the place of such infant or feme covert by the said courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take, in the place and for the benefit of such person under the age of twenty-one years, or feme covert, one or more new lease or leases of the premises comprised in such lease surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively or otherwise as the said courts shall respectively direct.

13. [*Rep. as to U. K. 36 & 37 Vict., c. 91 (S. L. R.) Omitted as being inapplicable to India.*]

14. * * * every sum of money and other consideration paid by any guardian, trustee, committee, or other person as a fine, premium, or income, or in the nature of a fine, premium, or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant or lunatic for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said courts, and lord chancellor intrusted as aforesaid, respectively shall direct and determine; Charges attending renewal to be charged on the estates as the court shall direct.

and as to leases to be made upon surrenders by femes covert, unless the fine or consideration of such lease and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge upon such leasehold premises, for the benefit of the person who shall advance the same.

15. * * * every lease to be renewed as aforesaid shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devices, and conditions, as the lease to be from time to time surrendered as aforesaid was or would have been subject to in case such surrender had not been made. New leases shall be to the same uses as the leases surrendered.

16. * * * where any person, being under the age of twenty- Infants, etc.

¹ S. 12 is rep., so far as it relates to the courts of equity of the county palatine of Chester, or the courts of great sessions of the principality of Wales, 37 & 38 Vict., c. 35 (S. L. R.). Hence omission.

(Sec. 17.)

empowered by one years, or a feme covert, might, in pursuance of any covenant or agreement, order of Court if not under disability, be compelled to renew any lease made or to be made of Chancery to grant renewals for the life or lives of one or more person or persons, or for any term or number of leases. of years absolute or determinable on the death of one or more person or persons, it shall be lawful to and for such infant, or his guardian in the name of such infant or such feme covert, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, or of such feme covert, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the court by such order shall direct.

Court of Chan-
cery may au-
thorize leases
to be made of
lands belong-
ing to infants
when it is for
the benefit of
the estate.

17. * * * * where any person, being an infant under the age of twenty-one years, is or shall be seised or possessed of or entitled to any land in fee or in tail, or to any leasehold land for an absolute interest, and it shall appear to the Court of Chancery to be for the benefit of such person that a lease or under-lease should be made of such estates for terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or the working of mines, or otherwise improving the same, or for farming or other purposes, it shall be lawful for such infant, or his guardian in the name of such infant, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such term or terms of years. and subject to such rents and covenants, as the said Court of Chancery shall direct;

but in no such case shall any fine or premium be taken, and in every such case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease;

and the leases, and covenants and provisions therein, shall be settled and approved of by a master of the said court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and such counterparts shall be deposited for safe custody in the master's office until such infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the meantime, for the purpose of enforcing any of the covenants therein contained;

(Secs. 18-21.)

Provided that no lease be made of the capital mansion, house and the park and grounds respectively held therewith for any period exceeding the minority of any such infant.

18. * * * * where any person who, in pursuance of any covenant or agreement in writing, might, if within the jurisdiction and amenable to the process of the Court of Chancery, be compelled to execute any lease by way of renewal, shall not be within the jurisdiction or not amenable to the process of the said court, it shall be lawful to and for the said Court of Chancery, by an order to be made upon the petition of any person or any of the persons entitled to such renewal, (whether such person be or be not under any disability,) to direct such person as the said court shall think proper to appoint for that purpose to accept a surrender of the subsisting lease, and make and execute a new lease in the name of the person who ought to have renewed the same ;

If persons bound to renew are out of the jurisdiction of the court, the renewals may be made by a person appointed by the Court of Chancery, in the name of the person who ought to have renewed.

and such deed, executed by the person to be appointed as aforesaid, shall be as valid as if the person in whose name the same shall be made had executed the same, and had been alive and not under any disability ;

but in every such case it shall be in the discretion of the said Court of Chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the renewal, and not to make the order for such new lease unless by the decree to be made in such cause, or until after such decree shall have been made.

Court may direct the party claiming renewal to file a bill to establish his right.

19. [*Rep. as to U. K. 36 & 37 Vict., c. 91 (S. L. R.) Omitted as being inapplicable to India.*]

20. Provided always * * * * that no renewed lease shall be executed by virtue of this Act, in pursuance of any covenant or agreement, unless the fine (if any), or such other sum or sums of money (if any), as ought to be paid on such renewal, and such things (if any) as ought to be performed in pursuance of such covenant or agreement by the lessee or tenant, be first paid and performed ; and counterparts of every renewed lease to be executed by virtue of this Act shall be duly executed by the lessee.

Fines to be paid before renewals, and counterparts executed.

21. * * * * all fines, premiums, and sums of money, which shall be had, received, or paid, for or on account of the renewal of any lease, after a deduction of all necessary incidental charges and expenses, shall be paid,

Fines, how to be applied.

if such renewal shall be made by or in the name of an infant, to his guardian, and be applied and disposed of for the benefit of such infant, in such manner as the said court shall direct ;

if such renewal shall be made by a feme covert, to such person or in such manner as the court shall direct for her benefit ;

if such renewal shall be made in the name of any person out of jurisdic-

tion or not amenable as aforesaid, to such person or in such manner, or into the Court of Chancery to such account, and to be applied and disposed of as the said court shall direct;

22. [*Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.) Omitted as being inapplicable to India.*]

23 to 25. [*Rep. as to U. K. 36 & 37 Vict., c. 91 (S. L. R.) Omitted as being spent or inapplicable to India.*]

Agreements under recited Act may be made by guardians of infants with the approbation of the court on petition.

26. * * * * the guardian of any infant, with the approbation of the Court of Chancery, to be signified by an order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant which such guardian might have entered into by virtue of the said last-recited Act, if the same had not been repealed;

27 to 30. [*Rep. as to U. K. 36 & 37 Vict., c. 91 (S. L. R.) Omitted as being inapplicable to India.*]

Surrenders, leases, etc., made under this Act deemed valid.

31. * * * * every surrender and lease, agreement, conveyance, mortgage, or other disposition respectively, granted and accepted, executed and made, by virtue of this Act, shall be and be deemed as valid and legal to all intents and purposes as if the person by whom, or in whose place, or on whose behalf the same respectively shall be granted or accepted, executed and made, had been of full age, unmarried, or of sane mind, and had granted, accepted, made, and executed the same;

and every such surrender and lease respectively made and accepted by or on the behalf of a feme covert shall be valid, without any fine being levied by her.

Court of Chancery may, on petition, order dividends of stock belonging to infants to be applied for their maintenance.

32. * * * * it shall be lawful for the Court of Chancery, by an order to be made on the petition of the guardian of any infant in whose name any stock shall be standing, or any sum of money, by virtue of any Act or paying off any stock, and who shall be beneficially entitled thereto, or if there shall be no guardian, by an order to be made in any cause depending in the said court, to direct all or any part of the dividends due or to become due in respect of such stocks, or any such sum of money, to be paid to any guardian of such infant, or to any other person, according to the discretion of such court, for the maintenance and education or otherwise for the benefit of such infant, such guardian or other person to whom such payment shall be directed to be made being named in the order directing such payment;

and the receipt of such guardian or other person for such dividends or sum of money, or any part thereof, shall be as effectual as if such infant had attained the age of twenty-one years, and had signed and given the same.

33 and 34. [*Rep. as to U. K. 36 & 37 Vict., c. 91 (S. L. R.) Omitted as being inapplicable to India.*]

Costs may be directed to be paid.

35. * * * * the Court of Chancery, or lord chancellor, in-trusted as aforesaid, may order the costs and expenses of and relating to the petitions, orders, directions, conveyances, and transfers to be made in pursuance

(Secs. 36-44.)

1 Will. 4, c. 4.] *The Colonial Offices Act, 1830. (Sec. 2.)*

of this Act, or any of them, to be paid and raised out of or from the lands or stock or the rents or dividends in respect of which the same respectively shall be made, in such manner as the said court or lord chancellor shall think proper.

36. * * * * the powers and authorities given by this Act to the Court of Chancery in England shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty, except Scotland. Extent of powers given to the Court of Chancery in England.

37. [Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.) Omitted as being inapplicable to India.]

38.¹ * * * * the powers and authorities given by this Act to the Courts of Chancery and Exchequer in England shall and may be exercised in like manner, and are hereby given, to the Courts of Chancery and Exchequer in Ireland, with respect to land and stock in Ireland. Powers given to courts in England may be exercised by courts in Ireland.

39. [Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.) Omitted as being inapplicable to India.]

40 to 42. [Rep. as to U. K. 36 & 37 Vict., c. 91 (S. L. R.) Omitted as being inapplicable to India.]

43. [Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.) Omitted as being inapplicable to India.]

44. * * * * this Act shall be and is hereby declared to be a full and complete indemnity and discharge to the governor and company of the Bank of England, and all other companies and societies, and their officers and servants, for all acts and things done or permitted to be done pursuant thereto; Act to be an indemnity to the Bank of England and other companies.

and that such acts and things shall not be questioned or impeached in any court of law or equity to their prejudice or detriment.

THE COLONIAL OFFICES ACT, 1830.

(1 Will. 4, c. 4.)

An Act * * * * to extend the period within which the Patents of Governors of colonies shall on any future Demise of the Crown become vacant, and to provide for the longer Duration of the Patents of Governors after the Demise of the Crown.

[23rd December, 1830.]

[Preamble.]

1. [Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.) Omitted as being spent.]

2. * * * * no patent, commission, warrant, or other authority, for the exercise of any office or employment, civil or military, within any of his Majesty's plantations or possessions abroad, determinable Patents, etc., for exercise of offices abroad shall not thereafter

¹ S. 38 is rep., so far as it relates to the Court of Exchequer in Ireland, Stat. Law Rev. Act, 1874.

(Secs. 1-2.)

determine at the pleasure of his Majesty, or of any of his Majesty's heirs and
until eighteen successors, shall, by reason of any future demise of the Crown, be vacated or
months after become void until the expiration of eighteen calendar months next after any
demise of the Crown. such demise of the Crown as aforesaid.

THE EVIDENCE ON COMMISSION ACT, 1831.¹

(1 Will. 4, c. 22.)

*An Act to enable Courts of Law to order the Examination of Witnesses upon
Interrogatories and otherwise.*

[50th March, 1831.]

WHEREAS great difficulties and delays are often experienced, and sometimes
a failure of justice takes place, in actions depending in courts of law, by reason
of the want of a competent power and authority in the said courts to order
and enforce the examination of witnesses, when the same may be required,
before the trial of a cause:

13 Geo. 3,
c. 63.

and whereas by an Act passed in the thirteenth year of the reign of his
late Majesty King George the Third, intituled "An Act for the establishing
certain regulations for the better management of the affairs of the East India
Company, as well in India as in Europe," certain powers are given and provi-
sions made for the examination of witnesses in India in the cases therein
mentioned;

and it is expedient to extend such powers and provisions:

Powers of the
recited Act,
as to the ex-
amination of
witnesses in
India, ex-
tended to the
colonies, etc.,
and to all
actions in the
courts at West-
minster, when
examination
by commis-
sion shall
appear
necessary

1. * * * * all and every the powers, authorities, provi-
sions, and matters contained in the said recited Act, relating to the examination
of witnesses in India, shall be and the same are hereby extended to all colonies,
islands, plantations, and places under the dominion of his Majesty in foreign
parts, and to the judges of the several courts therein, and to all actions depend-
ing in any of his Majesty's courts of law at Westminster, in what place or
country soever the cause of action may have arisen, and whether the same may
have arisen within the jurisdiction of the court to the judges whereof the
writ or commission may be directed, or elsewhere, when it shall appear that
the examination of witnesses under a writ or commission issued in pursuance
of the authority hereby given will be necessary or conducive to the due
administration of justice in the matter wherein such writ shall be applied
for.

Judges to
whom the
commission

2. * * * * when any writ or commission shall issue under
the authority of the said recited Act, or of the power herein-before given by

¹ Extended to suits and proceedings on the Revenue side of the Exchequer, 22 & 23 Vict.,
c. 21, s. 16. See *Chitty's Statutes, Evidence of Witnesses*, p. 11; also *Taylor on Evidence*,
§§ 500 and 1580.

1 Will. 4, c. 22.] *The Evidence on Commission Act, 1831. (Secs. 6-7.)* 161

2 & 3 Will. 4, c. 53.] *The Army Prize Money Act, 1832. (Sec. 2.)*

this Act, the judge or judges to whom the same shall be directed shall have the like power to compel and enforce the attendance and examination of witnesses as the court whereof they are judges does or may possess for that purpose in suits or causes depending in such court. is directed empowered to enforce the attendance of witnesses.

3 to 5. [*Rep. as to U. K. 46 & 47 Vict., c. 49, s. 3; but see s. 7. Omitted as being obsolete or inapplicable to India.*]

6. * * * * * it shall be lawful for any sheriff, gaoler, or other officer, having the custody of any prisoner, to take such prisoner for examination under the authority of this Act, by virtue of a writ of habeas corpus to be issued for that purpose, which writ shall and may be issued by any court or judge under such circumstances and in such manner as such court or judge may now by law issue the writ commonly called a writ of habeas corpus ad testificandum. Prisoners may be removed by habeas corpus for examination.

7. * * * * * it shall be lawful for all and every person authorized to take the examination of witnesses by any rule, order, writ or commission made or issued in pursuance of this Act, and he and they are hereby authorized and required, to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath to be administered by the person so authorized, or by any judge of the court wherein the action shall be depending; Examination of witnesses to be taken upon oath or affirmation.

and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall and may be indicted and prosecuted for such offence in the county wherein such evidence shall be given, or in the county of Middlesex if the evidence be given out of England. Persons giving false evidence to be deemed guilty of perjury.

8 to 11. [*Rep. as to U. K. 46 & 47 Vict., c. 49, s. 3; but see s. 7. Omitted as being obsolete or inapplicable to India.*]

THE ARMY PRIZE MONEY ACT, 1832.

(2 & 3 Will. 4, c. 53.)

An Act for consolidating and amending the Laws relating to the Payment of Prize Money.

[23rd June, 1832.]

[*Preamble.*]

1. [*Rep. as to U. K. 57 & 58 Vict., c. 35 (S. L. R.) Omitted as being spent.*]

2. * * * * * in all captures which shall be made by his Majesty's army, royal artillery, provincial, black, and all other troops in the pay or service of his Majesty, or belonging to his Majesty, but in the pay of the United Company of Merchants trading to the East Indies, or howsoever All captures hereafter made by the army, etc. shall be dis-

posed of as
his Majesty
shall direct.

otherwise paid, of any fortress or possession of his Majesty's enemies, or of any ship or vessel in any road, river, haven, or creek belonging to such fortress or possession, and in all captures, expeditions, or actions from which prize money, bounty money, or grant shall arise, the commanders and other officers and soldiers engaged therein shall have such right and interest as his Majesty shall think fit to order in all the arms, ammunition, stores of war, goods, merchandize, booty, prize and treasure belonging to the state, or to any public trading company of such enemies, which shall be found in such fortress or possession or captured in or granted for any such expedition or action, to be divided in such proportions and according to such general rule of distribution for the army, as shall be established by his Majesty, or in default thereof in such manner as his Majesty shall under his sign manual be pleased to direct.

* * * * *

In all con-
junct expedi-
tions, after
adjudication
by a court of
admiralty, the
shares of the
army, as soon
as ascertained,
to be paid
over to the
treasurer of
Chelsea Hos-
pital for
distribution.

29. * * * * * in all conjunct expeditions of his Majesty's land and naval forces, from and after the adjudication of all and every ship or vessel, with their arms, ammunition, tackle, apparel, and furniture, and all the goods, merchandize, and other effects on board the same, and of every other matter or thing subject to such adjudication which shall be captured in any road, haven, river, or creek belonging to such fortress or possession, or otherwise, as lawful prize to his Majesty, in any of his Majesty's courts of admiralty or vice-admiralty which shall be duly authorized to take cognizance of the same, and which courts are hereby required to proceed therein to lawful adjudication, the share and proportion of his Majesty's army, royal artillery, provincial, black, and other troops in the pay of or belonging to his Majesty or in the pay of the United Company of Merchants trading to the East Indies, shall, as soon as such shares shall be ascertained, be paid over to the treasurer of Chelsea Hospital, in order that the same may be distributed, subject to the provisions, penalties, rules, remedies, and regulations of this Act.

* * * * *

THE DRAMATIC COPYRIGHT ACT, 1833.¹

(3 & 4 Will. 4, c. 15.)

An Act to amend the Laws relating to Dramatic Literary Property.

[10th June, 1833.]

[Preamble recites 54 Geo. 3, c. 156, s. 4.]

The author of
any dramatic
piece or his

1. The author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed and not printed and published by

¹ The remaining provisions have been omitted as being apparently inapplicable to India.

² See *Chitty's Statutes*, Tit. Copyright, p. 11; also *Scrutton's Law of Copyright*, p. 71

(Sec. 2.)

the author thereof or his assignee, or which hereafter shall be composed and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the Isles of Man, Jersey, and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof;

and the author of any such production, printed and published within ten years before the passing of this Act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this Act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof:

Provided nevertheless, that nothing in this Act contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this Act, have given his consent to or authorized such representation; but that such sole liberty of the author or his assignee shall be subject to such right or authority.

2. * * * * if any person shall, during the continuance of such sole liberty as aforesaid, contrary to the intent of this Act or right of the author or his assignee, represent, or cause to be represented, without the consent in writing of the author or other proprietor first had and obtained, at any place of dramatic entertainment within the limits aforesaid, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to the payment of an amount not less than forty shillings,¹ or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of

assignee shall have as his property the sole liberty of representing it when not published;

and after publication for 28 years or during author's life.

Proviso as to cases where, previously to the passing of this Act, consent has been given to such representation.

Penalty on persons representing pieces contrary to this Act.

¹ As to minimum penalty and costs, see 51 & 52 Vict., c. 17, ss. 1, 2.

such production so represented contrary to the true intent and meaning of this Act, to be recovered, together with double costs of suit, by such author, or other proprietors, in any court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed;

and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating the same to be subject to such right or authority, or otherwise mentioning the same.

Limitation of actions.

3. Provided nevertheless * * * * that all actions or proceedings for any offence or injury that shall be committed against this Act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect.

Explanation of words.

4. * * * * whenever authors, persons, offenders, or others are spoken of in this Act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex.

THE JUDICIAL COMMITTEE ACT, 1833.¹

(3 & 4 Will. 4, c. 41.)

An Act for the better Administration of Justice in His Majesty's Privy Council.

[14th August, 1833.]

[Preamble.]

Certain members of privy council to form a committee to be styled "The Judicial Committee of the Privy Council."

1. The president for the time being of his Majesty's privy council * * * * and such of the members of his Majesty's privy council as shall from time to time hold any of the offices following, that is to say, of the office of lord keeper or first lord commissioner of the great seal of Great Britain, * * * * and also all persons members of his Majesty's privy council, who shall have been president thereof * * * * or shall have held any of the other offices herein-before mentioned, shall form a committee of his Majesty's said privy council and shall be styled "The Judicial Committee of the Privy Council":

Provided nevertheless that it shall be lawful for his Majesty from time to time, as and when he shall think fit by his sign manual, to appoint any two other persons, being privy councillors, to be members of the said committee.²

2. [Rep. 53 & 54 Vict., c. 27, s. 18.]

¹ See *Chitty's Statutes*, Tit. Privy Council, p. 3.

² Extended 50 & 51 Vict., c. 70, s. 3.

(Secs. 3-7.)

3. * * * * all appeals or complaints in the nature of appeals whatever, which either by virtue of this Act, or of any law, statute, or custom, may be brought before his Majesty or his Majesty in council from or in respect of the determination, sentence, rule, or order of any court, judge or judicial officer, and all such appeals as are now pending and unheard shall from and after the passing of this Act be referred by his Majesty to the said judicial committee of his privy council, and such appeals, causes, and matters shall be heard by the said judicial committee, and a report or recommendation thereon shall be made to his Majesty in council for his decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by his Majesty to the whole of his privy council or a committee thereof (the nature of such report or recommendation being always stated in open court).

Appeals to King in council from sentence of any judge, etc., shall be referred to the committee, & report thereon

4. * * * * it shall be lawful for his Majesty to refer to the said judicial committee for hearing or consideration any such other matters whatsoever as his Majesty shall think fit;

His Majesty may refer any other matters to the committee.

and such committee shall thereupon hear or consider the same and shall advise his Majesty thereon in manner aforesaid.

5. * * * * no report or recommendation shall be made to his Majesty unless a majority of the members of such judicial committee present at the hearing shall concur in such report or recommendation:

No report to be made unless with concurrence of majority present. Other members of council may be summoned to attend.

Provided always, that nothing herein contained shall prevent his Majesty, if he shall think fit, from summoning any other of the members of his said privy council to attend the meetings of the said committee.

6. * * * * in case his Majesty shall be pleased, by directions under his sign manual, to require the attendance at the said committee for the purposes of this Act of any member or members of the said privy council who shall be a judge or judges of the Court of King's Bench or of the Court of Common Pleas, or of the Court of Exchequer, such arrangements for dispensing with the attendance of such judge or judges upon his or their ordinary duties during the time of such attendance at the privy council as aforesaid shall be made by the judges of the court or courts to which such judge or judges shall belong respectively in regard to the business of the court, and by the judges of the said three courts, or by any eight or more of such judges, including the chiefs of the several courts, in regard to all other duties, as may be necessary and consistent with the public service.

If his Majesty direct the attendance of any member who is a judge, the other judges of the court to which he belongs shall arrange with regard to the business of the court.

7. * * * * it shall be lawful for the said judicial committee, in any matter, which shall be referred to such committee, to examine witnesses by word of mouth (and either before or after examination by

Committee may take evidence *via voce*, or upon

(Secs. 8-10.)

written de-
positions.

deposition), or to direct that the depositions of any witness shall be taken in writing by the registrar of the said privy council to be appointed by his Majesty as herein-after mentioned, or by such other person or persons, and in such manner, order, and course, as his Majesty in council or the said judicial committee shall appoint and direct;

and the said registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an examiner of the High Court of Chancery or of any court ecclesiastical.

Committee
may order any
particular
witnesses to
be examined,
and as to any
particular
facts, and
may remit
causes for
rehearing.

8. * * * * in any matter which shall come before the said judicial committee it shall be lawful for the said committee to direct that such witnesses shall be examined or re-examined, and as to such facts as to the said committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts in a previous stage of the matter;

and it shall also be lawful for his Majesty in council, on the recommendation of the said committee, upon any appeal, to remit the matter which shall be the subject of such appeal to the court from the decision of which such appeal shall have been made, and at the same time to direct that such court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence though before rejected, or reject such evidence before admitted, as his Majesty in council shall direct;

and further, on any such remitting or otherwise, it shall be lawful for his Majesty in council to direct that one or more feigned issue or issues shall be tried in any court in any of his Majesty's dominions abroad, for any purpose for which such issue or issues shall to his Majesty in council seem proper.

Witnesses to
be examined
on oath, and
to be liable to
punishment
for perjury.

9. * * * * every witness who shall be examined in pursuance of this Act shall give his or her evidence upon oath, or if a Quaker or Moravian upon solemn affirmation, which oath and affirmation respectively shall be administered by the said judicial committee and registrar, and by such other person or persons as his Majesty in council or the said judicial committee shall appoint;

and every such witness who shall wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly.

Committee
may direct
feigned
issues;

10. * * * * it shall be lawful for the said judicial committee to direct one or more feigned issue or issues to be tried in any court of common law, and either at bar, before a judge of assize, or at the sittings for the trial of issues in London or Middlesex, and either by a special or common

(Secs. 11-15.)

jury, in like manner and for the same purpose as is now done by the High Court of Chancery.

11. * * * * it shall be in the discretion of the said and may, in certain cases, direct depositions to be read, etc., at the trial of the issue; judicial committee to direct that, on the trial of any such issue, the depositions already taken of any witness who shall have died, or who shall be incapable to give oral testimony, shall be received in evidence, and further, that such deeds, evidences, and writing shall be produced, and that such facts shall be admitted, as to the said committee shall seem fit.

12. * * * * it shall be lawful for the said judicial and may make orders as to the admission of witnesses; committee to make such and the like orders respecting the admission of persons, whether parties or others, to be examined as witnesses upon the trial of any such issues as aforesaid, as the lord high chancellor or the Court of Chancery has been used to make respecting the admission of witnesses upon the trial of issues directed by the lord chancellor or the Court of Chancery.

13. * * * * it shall be lawful for the said judicial and may direct new trials of issues. committee to direct one or more new trial or new trials of any issue, either generally or upon certain points only ;

and in case any witness examined at a former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said committee to direct that parol evidence of the testimony of such witness shall be received.

14. And whereas by an Act passed in the thirteenth year of his late Majesty King George the Third, and intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company as well in India as in Europe " and by an Act passed in the first year of the reign of his present Majesty and intituled "An Act to enable the courts of law to order the examination of witnesses upon interrogatories and otherwise " certain powers are given to certain courts therein mentioned to enforce, and provisions are made for the examination of witnesses by commission upon interrogatories and otherwise :

Be it therefore further enacted, that all the powers and provisions contained in the two last-mentioned Acts or either of them shall extend to and be exercised by the said judicial committee in all respects as if such committee had been therein named as one of his Majesty's courts of law at Westminster. Powers of 13 Geo. 3 c. 63, and 1 Will. 4, c. 22, shall extend to the judicial committee.

15. * * * * the costs incurred in the prosecution of any Costs to be in the discretion of the committee. appeal or matter referred to the said judicial committee, and of such issues as the same committee shall under this Act direct, shall be paid by such party or

(Secs. 16-20.)

parties, person or persons, and be taxed by the aforesaid registrar or such other person or persons to be appointed by his Majesty in council or the said judicial committee, and in such manner as the said committee shall direct.

Decrees to be enrolled.

16. * * * * the orders or decrees of his Majesty in council made in pursuance of any recommendation of the said judicial committee, in any matter of appeal from the judgment or order of any court or judge, shall be enrolled for safe custody in such manner, and the same may be inspected and copies thereof taken under such regulations, as his Majesty in council shall direct.

Committee may refer matters to registrar in the same manner as matters are by the Court of Chancery referred to a master.

17. * * * * it shall be lawful for the said committee to refer any matters to be examined and reported on to the aforesaid registrar, or to such other person or persons as shall be appointed by his Majesty in council, or by the said judicial committee, in the same manner and for the like purposes as matters are referred by the Court of Chancery to a master of the said court;

and for the purposes of this Act the said registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a master in Chancery.

His Majesty may appoint registrar.

18. * * * * it shall be lawful for his Majesty, under his sign manual, to appoint any person to be the registrar of the said privy council, as regards the purposes of this Act, and to direct what duties shall be performed by the said registrar.

Attendance of witnesses, and production of papers, etc., may be compelled by subpoena.

19. * * * * it shall be lawful for the president for the time being of the said privy council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings by writ to be issued by such president in such and the same form or as nearly as may be, as that in which a writ of subpoena and testificandum or of subpoena duces tecum is now issued by his Majesty's Court of King's Bench at Westminster;

and every person disobeying any such writ so to be issued by the said president shall be considered as in contempt of the said judicial committee, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said Court of King's Bench, and may be sued for such penalties in the said court.

Time of appealing.

20. * * * * all appeals to his Majesty in council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and where no such law or usage shall exist, then within such time as shall be ordered by his Majesty in council;

and subject to any right subsisting under any charter or constitution of

(Secs. 21-28.)

any colony or plantation, it shall be lawful for his Majesty in council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to his Majesty in council.

21. * * * * the order or decree of his Majesty in council Decrees on appeals from courts abroad to be carried into effect as the King in council shall direct.
on any appeal from the order, sentence, or decree of any court of justice in the East Indies, or of any colony, plantation, or other his Majesty's dominions abroad, shall be carried into effect in such manner, and subject to such limitations and conditions, as his Majesty in council shall, on the recommendation of the said judicial committee, direct;

and it shall be lawful for his Majesty in council, on such recommendation, by order to direct that such court of justice shall carry the same into effect accordingly, and thereupon such court of justice shall have the same powers of carrying into effect and enforcing such order or decree as are possessed by or are hereby given to his Majesty in council;

Provided always that nothing in this Act contained shall impeach or Saving of powers, etc., of privy council, except as hereby altered.
abridge the powers, jurisdiction, or authority of his Majesty's privy council as heretofore exercised by such council, or in anywise alter the constitution or duties of the said privy council, except so far as the same are expressly altered by this Act, and for the purposes aforesaid.

22. [*Rep. as to U. K. 24 & 25 Vict., c. 101 (S. L. R.). Omitted as being inapplicable to India.*]

23. * * * * in any case where any order shall have been Orders made on such appeals to have effect notwithstanding death of parties, etc.
made on any such appeal as last aforesaid, the same shall have full force and effect notwithstanding the death of any of the parties interested therein;

but in all cases where any such appeal may have been withdrawn or discontinued, or any compromise made in respect of the matter in dispute, before the hearing thereof, then the determination of his Majesty in council in respect of such appeal shall have no effect.

24. * * * * it shall be lawful for his Majesty in council His Majesty may make orders for regulating the mode, etc., of appeals.
from time to time to make any such rules and orders as may be thought fit for the regulating the mode, form, and time of appeal to be made from the decisions of the said courts of Sudder Dewanny Adawlut, or any other courts of judicature in India or elsewhere to the eastward of the Cape of Good Hope from the decisions of which an appeal lies to his Majesty in council, and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expenses attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made.

25 to 27. [*Rep. as to U. K. 24 & 25 Vict., c. 101 (S. L. R.). Omitted as being inapplicable to India.*]

28. * * * * the said judicial committee shall have and Power of

enforcing
decrees.

enjoy in all respects such and the same power of punishing contempts and of compelling appearances, and ** his Majesty in council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders as are now exercised by the High Court of Chancery or the Court of King's Bench (and both in personam and in rem), * * * * *

29. [*Rep. as to U. K. 38 & 39 Vict., c. 66 (S. L. R.). Omitted as being inapplicable to India.*]

Two retired
Indian or
colonial judges
attending the
judicial com-
mittee shall
receive an
allowance.

30. * * * * * two members of his Majesty's privy council who shall have held the office of judge in the East Indies or any of his Majesty's dominions beyond the seas and who, being appointed for that purpose by his Majesty, shall attend the sittings of the judicial committee of the privy council, shall severally be entitled to receive over and above any annuity granted to them in respect of having held such office as aforesaid, the sum of four hundred pounds for every year during which they shall so attend as aforesaid as an indemnity for the expence which they may thereby incur;

and such sum of four hundred pounds shall be chargeable upon and paid out of the consolidated fund of the United Kingdom of Great Britain and Ireland.

Saving as to
treaties with
foreign coun-
tries appoint-
ing certain
persons to
hear prize
appeals.

31. Provided always * * * that nothing herein contained shall be held to impeach or render void any treaty or engagement already entered into by or on behalf of his Majesty, or be taken to restrain his Majesty from acceding to any treaty, with any foreign prince, potentate, or power, in which treaty it shall be stipulated that any person or persons other than the said judicial committee shall hear and finally adjudicate appeals from his Majesty's courts of admiralty in causes of prize;

but that the judgments, decrees, and orders of such other person or persons so appointed by treaty shall be of the same force and effect of which they would respectively have been if this Act had not been passed.

THE GOVERNMENT OF INDIA ACT, 1833.¹

(3 & 4 Will. 4, c. 85.)

An Act for effecting an Arrangement with the East India Company, and for the better Government of His Majesty's Indian Territories, till the thirtieth day of April one thousand eight hundred and fifty-four.

[28th August, 1833.]

Preamble recites 53 Geo. 3, c. 155, and the consent of the "United Company of Merchants of England trading to the East Indies" to place their rights and property at the disposal of Parliament.

¹ The provisions of this Statute, except ss. 81 to 86, may not be affected by legislation in India—see 24 & 25 Vict., c. 67, s. 22, and 32 & 33 Vict., c. 98, s. 3. For digest and notes, see *Ilbert's Government of India*, pp. 299-305.

(Secs. 1-2.)

1. The territorial acquisitions and revenues mentioned or referred to in the said Act of the fifty-third year of his late Majesty King George the Third, together with the port and island of Bombay and all other territories now in the possession and under the government of the said company except the island of St. Helena, shall remain and continue under such government until the thirtieth day of April one thousand eight hundred and fifty-four;

The British territories in India to remain under the government of the company till 30th April, 1854.

and all the lands and hereditaments, revenues, rents, and profits of the said company, and all the stores, merchandize, chattels, monies, debts, and real and personal estate whatsoever, except the said island of St. Helena and the stores and property thereon herein-after mentioned, subject to the debts and liabilities now affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and other emoluments whatsoever, which the said company shall be seised or possessed of or entitled unto on the said twenty-second day of April one thousand eight hundred and thirty-four shall remain and be vested in, and be held, received, and exercised respectively accordingly to the nature and quality, estate and interest of and in the same respectively, by the said company, in trust for his Majesty, his heirs and successors, for the service of the government of India, discharged of all claims of the said company to any profit or advantage therefrom to their own use, except the dividend on their capital stock secured to them as herein-after is mentioned, subject to such powers and authorities for the superintendence, direction and control over the acts, operations, and concerns of the said company as have been already made or provided by any Act or Acts of Parliament in that behalf, or are made or provided by this Act.

Real and personal property of the company to be held in trust for the Crown, for the service of India.

2. * * * * all and singular the privileges, franchises, abilities, capacities, powers, authorities, whether military or civil, rights, remedies, methods of suits, penalties, forfeitures, disabilities, provisions, matters, and things whatsoever granted to or continued in the said united company by the said Act of the fifty-third year of King George the Third for and during the term limited by the said Act, and all other the enactments, provisions, matters, and things contained in the said Act, or in any other Act or Acts whatsoever which are limited or may be construed to be limited to continue for and during the term granted to the said company by the said Act of the fifty-third year or King George the Third so far as the same or any of them are in force, and not repealed by or repugnant to the enactments herein-after contained, and all powers of alienation and disposition, rights, franchises, and immunities, which the said united company now have, shall continue and be in force, and may be exercised and enjoyed, as against all persons whomsoever, subject to the super-

All privileges, powers, etc., granted by 53 Geo. 3, c. 155, for the term thereby limited;

and all enactments not repugnant to this Act;

as also all rights and immunities of the company, to be in force

(Secs. 25-38.)

till 30th April, 1854, subject to control.

intendence, direction and control herein-before mentioned until the thirtieth day of April one thousand eight hundred and fifty-four.

3 to 18. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

19. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.).*]

20 to 24. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

25. * * * * the said board shall have and be invested

The board of commissioners to control all acts of the company concerning India, etc.

with full power and authority to superintend, direct, and control all acts, operations, and concerns of the said company which in anywise relate to or concern the government or revenues of the said territories or the property hereby vested in the said company in trust as aforesaid and all grants of salaries, gratuities and allowances and all other payments and charges whatever out of or upon the said revenues and property respectively, except as herein-after is mentioned.

26 to 35. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

36. Provided also * * * * that if the said board shall

If the board are of opinion that any matters wherein Indian or other states are concerned require secrecy, the board may send official communications through secret committee.

be of opinion that the subject-matter of any of their deliberations concerning the levying war or making peace, or treating or negotiating with any of the native princes or states in India, or with any other princes or states, or touching the policy to be observed with respect to such princes or states intended to be communicated in orders, dispatches, official letters or communications, to any of the governments or presidencies in India, or to any officers or servants of the said company shall be of a nature to require secrecy, it shall and may be lawful for the said board to send their orders, dispatches, official letters or communications, to the secret committee of the said court of directors to be appointed as is by this Act directed, who shall thereupon without disclosing the same transmit the same according to the tenor thereof or pursuant to the directions of the said board to the respective governments and presidencies, officers and servants;

and that the said governments and presidencies, officers and servants shall be bound to pay a faithful obedience thereto, in like manner as if such orders, dispatches, official letters or communications had been sent to them by the said court of directors.

37. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

38.¹ * * * * the territories now subject to the govern-

Presidency of Fort William in Bengal to be divided into two presidencies.

ment of the presidency of Fort William in Bengal shall be divided into two distinct presidencies, one of such presidencies in which shall be included Fort William aforesaid, to be styled the Presidency of Fort William in Bengal, and the other of such presidencies to be styled the Presidency of Agra;

¹ The operation of this section as to the presidency of Agra is suspended, 5 & 6 Will. 4, c. 62; 16 & 17 Vict., c. 95, s. 15.

(Secs. 39-47.)

and it shall be lawful for the said court of directors under the control by this Act provided, and they are hereby required to declare and appoint what part or parts of any of the territories under the government of the said company shall from time to time be subject to the government of each of the several presidencies now subsisting or to be established as aforesaid, and from time to time, as occasion may require, to revoke and alter, in the whole or in part, such appointment, and such new distribution of the same as shall be deemed expedient.

The court of directors to declare the limits from time to time of the several presidencies.

39. * * * * the superintendence, direction, and control of the whole civil and military government of all the said territories and revenues in India shall be and is hereby vested in a governor general and counsellors, to be styled "The Governor General of India in Council."

Government of India vested in governor general and counsellors.

40. [*Rep. 24 & 25 Vict., c. 67, s. 2.*]

41 and 42. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

43 and 44. [*Rep. 24 & 25 Vict., c. 67, s. 2.*]

45. Provided also * * * * that all laws and regulations made as aforesaid, so long as they shall remain unrepealed, shall be of the same force and effect within and throughout the said territories as any Act of Parliament would or ought to be within the same territories and shall be taken notice of by all courts of justice whatsoever within the same territories in the same manner as any public Act of Parliament would and ought to be taken notice of ;

All such laws and regulations to be of the same force as any Act of Parliament.

and it shall not be necessary to register or publish in any court of justice any laws or regulations made by the said governor general in council.

Registration unnecessary.

46. Provided also * * * * that it shall not be lawful for the said governor general in council, without the previous sanction of the said court of directors, to make any law or regulation whereby power shall be given to any courts of justice, other than the courts of justice established by his Majesty's charters, to sentence to the punishment of death any of his Majesty's natural-born subjects born in Europe, or the children of such subjects, or which shall abolish any of the courts of justice established by his Majesty's charters.

Restriction as to giving the power of punishing with death European subjects, etc.

47. * * * * the said court of directors shall forthwith submit for the approbation of the said board, such rules as they shall deem expedient for the procedure of the governor general in council in the discharge and exercise of all powers, functions, and duties imposed on or vested in him by virtue of this Act or to be imposed or vested in him by any other Act or Acts; which rules shall prescribe the modes of promulgation of any laws or regulations to be made by the said governor general in council and of the

The court of directors to submit to the board rules for the procedure of the governor general in council, etc.

(Secs. 48-52.)

authentication of all acts and proceedings whatsoever of the said governor general in council;

and such rules when approved by the said board of commissioners shall be of the same force as if they had been inserted in this Act:

Provided always that such rules shall be laid before both Houses of Parliament in the session next after the approval thereof.

Quorum of governor general and members in council.

48. Provided always * * * * that all laws and regulations shall be made at some meeting of the council at which the said governor general and at least three of the ordinary members of council shall be assembled, and that all other functions of the said governor general in council may be exercised by the said governor general and one or more ordinary member or members of council, and that in every case of difference of opinion at meetings of the said council where there shall be an equality of voices, the said governor general shall have two votes or the casting vote.

49. [*Rep. 33 & 34 Vict., c. 3, s. 4.*]

50. [*Rep. 24 & 25 Vict., c. 67, s. 2.*]

Nothing in this Act to affect the right of Parliament to legislate for India, etc.

51. Provided always * * * * that nothing herein contained shall extend to affect in any way the right of Parliament to make laws for the said territories and for all the inhabitants thereof;

and it is expressly declared that a full, complete, and constantly existing right and power is intended to be reserved to Parliament to control, supersede, or prevent all proceedings and acts whatsoever of the said governor general in council, and to repeal and alter at any time any law or regulation whatsoever made by the said governor general in council, and in all respects to legislate for the said territories and all the inhabitants thereof in as full and ample a manner as if this Act had not been passed;

Laws and regulations made by governor general in council to be laid before Parliament.

and the better to enable Parliament to exercise at all times such right and power, all laws and regulations made by the said governor general in council shall be transmitted to England, and laid before both Houses of Parliament, in the same manner as is now by law provided concerning the rules and regulations made by the several governments in India.

All enactments relating to governor general of Fort William shall apply to governor general of India in council and alone.

52. * * * * all enactments, provisions, matters, and things relating to the governor general of Fort William in Bengal in council, and the governor general of Fort William in Bengal alone, respectively, in any other Act or Acts contained, so far as the same are now in force, and not repealed by or repugnant to the provisions of this Act, shall continue and be in force and be applicable to the governor general of India in council, and to the governor general of India alone, respectively.

(Secs. 56-59.)

53 to 55. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

56. * * * * the executive government of each of the several presidencies of the Fort William in Bengal, Fort Saint George, Bombay, and Agra shall be administered by a governor and three councillors, to be styled "The Governor in Council of the said Presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra respectively";

The executive government of the presidencies to be administered by a governor and three councillors.

and the said governor and councillors respectively of each such presidency shall have the same rights and voices in their assemblies, and shall observe the same order and course in their proceedings, as the governors in council of the presidencies of Fort Saint George and Bombay now have and observe; * * * * *

57. Provided always * * * * that it shall and may be lawful for the said court of directors, under such control as is by this Act provided, to revoke and suspend, so often and for such periods as the said court shall in that behalf direct, the appointment of councils in all or any of the said presidencies, or to reduce the number of councillors in all or any of the said councils;

Directors may revoke the appointment of councils, or reduce the number of councillors.

and during such time as a council shall not be appointed in any such presidency the executive government thereof shall be administered by a governor alone.

58. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

59. * * * * in the presidencies in which the appointment of a council shall be suspended under the provision herein-before contained, and during such time as councils shall not be appointed therein respectively, the governors appointed under this Act, and in the presidencies in which councils shall from time to time be appointed, the said governors in their respective councils shall have all the rights, powers, duties, functions, and immunities whatsoever, not in anywise repugnant to this Act, which the governors of Fort Saint George and Bombay in their respective councils now have within their respective presidencies;

The governors of the presidencies to have the powers and immunities of the present governors of Madras and Bombay, but not to make or suspend laws or create officers, etc.

and the governors and members of council of presidencies appointed by or under this Act shall severally have all the rights, powers, and immunities respectively, not in anywise repugnant to this Act, which the governors and members of council of the presidencies of Fort Saint George and Bombay respectively now have in their respective presidencies;

Provided that no governor or governor in council shall have the power of making or suspending any regulations or laws in any case whatever, unless in cases of urgent necessity (the burthen of the proof whereof shall be on such governor or governor in council), and then only until the decision of the governor general of India in council shall be signified thereon;

(Secs. 61-63.)

and provided also, that no governor or governor in council shall have the power of creating any new office, or granting any salary, gratuity, or allowance, without the previous sanction of the governor general of India in council.

60. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

Power for the court to make provisional appointments to any offices.

61.¹ * * * * it shall be lawful for the said court of directors to appoint any person or persons provisionally to succeed to any of the offices aforesaid, for supplying any vacancy or vacancies therein, when the same shall happen by the death or resignation of the person or persons holding the same office or offices respectively, or on his or their departure from India with intent to return to Europe, or on any event or contingency expressed in any such provisional appointment or appointments to the same respectively, and such appointments again to revoke;

Provisional appointments of certain officers to be approved by his Majesty.

Provided that every provisional appointment to the several offices of governor general of India, governor of a presidency, and the member of council of India by this Act directed to be appointed from amongst persons who shall not be servants of the said company, shall be subject to the approbation of his Majesty, to be signified as aforesaid; but that no person so appointed to succeed provisionally to any of the said offices shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office.

In case of vacancy in the office of governor general, and no successor upon the spot, the ordinary member of council next in rank to act as governor general.

62. * * * * if any vacancy shall happen in the office of governor general of India when no provisional or other successor shall be upon the spot to supply such vacancy, then and in every such case the ordinary member of council next in rank to the said governor general shall hold and execute the said office of governor general of India and governor of the presidency of Fort William in Bengal, until a successor shall arrive or until some other person on the spot shall be duly appointed thereto;

and every such acting governor general shall, during the time of his continuing to act as such, have and exercise all the rights and powers of governor general of India, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting governor general foregoing his salary and allowance of a member of council for the same period.

Provision in case of a vacancy in the

63. * * * * if any vacancy shall happen in the office of governor of Fort Saint George, Bombay, or Agra, when no provisional or other

¹ So much of s. 61 as relates to vacancies in the office of Ordinary Member of the Council of India, repealed 24 & 25 Vict., c. 67, s. 2.

(Secs. 65-71.)

successor shall be upon the spot to supply such vacancy, then and in every such case, if there shall be a council in the presidency in which such vacancy shall happen, the member of such council, who shall be next in rank to the governor, other than the * * * officer commanding the forces of such presidency, and if there shall be no council, then the secretary of government of the said presidency who shall be senior in the said office of secretary, shall hold and execute the said office of governor until a successor shall arrive or until some other person on the spot shall be duly appointed thereto ;

office of governor of any of the subordinate presidencies and no successor on the spot.

and every such acting governor shall, during the time of his continuing to act as such, receive and be entitled to the emoluments and advantages appertaining to the office by him supplied, such acting governor foregoing all salaries and allowances by him held and enjoyed at the time of his being called to supply such office.

64. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.).*]

65. * * * the said governor general in council shall have and be invested by virtue of this Act with full power and authority to superintend and control the governor and governors in council of Fort William in Bengal, Fort Saint George, Bombay, and Agra, in all points relating to the civil or military administration of the said presidencies respectively, and the said governors and governors in council shall be bound to obey such orders and instructions of the said governor general in council in all case whatsoever.

The governor general in council to have the control over the presidencies.

66. [*Rep. 24 & 25 Vict., c. 67, s. 2.*]

67. * * * when the said governor general shall visit any of the presidencies of Fort Saint George, Bombay, or Agra, the powers of the governors of those presidencies respectively shall not by reason of such visit be suspended.

Powers of governors not to be suspended by visit of governor general.

68. * * * the said governors and governors in council of the said presidencies of Fort William in Bengal Fort Saint George, Bombay and Agra respectively shall and they are hereby respectively required regularly to transmit to the said governor general in council true and exact copies of all such orders and acts of their respective governments, and also advice and intelligence of all transactions and matters which shall have come to their knowledge, and which they shall deem material to be communicated to the said governor general in council as aforesaid, or as the said governor general in council shall from time to time require.

Communications to be transmitted by governors to governor general in council.

69. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.).*]

70. [*Rep. 24 & 25 Vict., c. 67, s. 2.*]

71. * * * there shall not by reason of the division of the territories now subject to the government of the presidency of Fort William

The new presidency of

¹The words "Commander-in-Chief or", which were repealed by 56 & 57 Vict., c. 62, s. 2, have been omitted.

(Secs. 73-76.)

Agra not to affect the succession to commands and offices in Bengal and Agra. two presidencies respectively ;

in Bengal into two presidencies as aforesaid, be any separation between the establishments and forces thereof respectively, or any alteration in the course and order of promotion and succession of the company's servants in the same

but all the servants, civil and military, of the Bengal establishments and forces shall and may succeed and be appointed to all commands and offices within either of the said presidencies respectively as if this Act had not been passed.

72. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

Articles of war to be made by governor general in council.

73. * * * * it shall be lawful for the said governor general in council from time to time to make articles of war for the government of the native officers and soldiers in the military service of the company, and for the administration of justice by courts-martial to be holden on such officers and soldiers and such articles of war from time to time to repeal or vary and amend ;

and such articles of war shall be made and taken notice of in the same manner as all other the laws and regulations to be made by the said governor general in council under this Act, and shall prevail and be in force, and shall be of exclusive authority over all the native officers and soldiers in the said military service, to whatever presidency such officers and soldiers may belong or wheresoever they may be serving :

Provided nevertheless, that until such articles of war shall be made by the said governor general in council, any articles of war for or relating to the government of the company's native forces, which at the time of this Act coming into operation shall be in force and use in any part or parts of the said territories, shall remain in force.

His Majesty may remove any officer of the company in India.

74. * * * * it shall be lawful for his Majesty, by any writing under his sign manual, * * * * to remove or dismiss any person holding any office, employment or commission, civil or military, under the said company in India, and to vacate any appointment or commission of any person to any such office or employment. * * * *

The power of the directors to remove their servants preserved.

75. Provided always * * * * that nothing in this Act contained shall take away the power of the said court of directors to remove or dismiss any of the officers or servants of the said company, but that the said court shall and may at all times have full liberty to remove or dismiss any of such officers or servants at their will and pleasure. * * * *

Salaries of Governor General, etc.

76. * * * * there shall be paid to the several officers herein-after named the several salaries set against the names of such officers, subject to such reduction of the said several salaries respectively as the said

(Secs. 77-79.)

court of directors, with the sanction of the said board, may at any time think fit (that is to say,)

To the governor general of India, two hundred and forty thousand sicca rupees:

To each ordinary member of the council of India, ninety-six thousand sicca rupees:

To each governor of the presidencies of Fort Saint George, Bombay, and Agra, one hundred and twenty thousand sicca rupees:

To each member of any council to be appointed in any presidency, sixty thousand sicca rupees:

and the salaries of the said officers respectively shall commence from their respectively taking upon them the execution of their respective offices;

and the said salaries shall be the whole profit or advantage which the said officers shall enjoy during their continuance in such offices respectively;

and it shall be and it is hereby declared to be a misdemeanor for any such officer to accept for his own use in the discharge of his office any present, gift, donation, gratuity or reward, pecuniary or otherwise whatsoever, or to trade or traffic for his own benefit or for the benefit of any other person or persons whatsoever;

* * * * *

Acceptance of gratuities, etc., a misdemeanor.

77. Provided always * * * * * that if any governor general, governor, or ordinary member of the council of India, or any member of the council of any presidency, shall hold or enjoy any pension, salary, or any place, office, or employment of profit under the crown or any public office or the said company, or any annuity payable out of the civil or military fund of the said company, the salary of his office of governor general of India, governor or member of council, shall be reduced by the amount of the pension, salary, annuity, or profits of office so respectively held or enjoyed by him.

Governor general and governors, etc., to forego pensions, etc., from the crown or company while they hold office.

78. * * * * * the said court of directors, with the approbation of the said board of commissioners, shall and may from time to time make regulations for the division and distribution of the patronage and power of nomination of and to the offices, commands and employments in the said territories, and in all or any of the presidencies thereof, among the said governor general in council, governor general, governors in council, governors, commander in chief, and other commanding officers respectively appointed or to be appointed under this Act.

Directors to make regulations for the distribution of patronage in India.

79. * * * * * the return to Europe or the departure from India with intent to return to Europe of any governor general of India,

Departure of governor general, etc.

(Secs. 60-84.)

For Europe, to be a resignation. governor, member of council, or commander in chief, shall be deemed in law a resignation and avoidance of his office or employment;

Resignation in India to be by deed. and no act or declaration of any governor general, or governor, or member of council, other than as aforesaid, excepting a declaration in writing under hand and seal, delivered to the secretary for the public department of the presidency wherein he shall be, in order to its being recorded, shall be deemed or held as a resignation of surrender of his said office;

Salary to cease on departure or resignation. and the salary and other allowances of any such governor general or other officer respectively shall cease from the day of such his departure, resignation, or surrender;

and if any such governor general or member of council of India shall leave the said territories, or if any governor or other officer whatever in the service of the said company shall leave the presidency to which he shall belong, other than in the known actual service of said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use;

and in the event of his not returning, or of his coming to Europe, his salary and allowances shall be deemed to have ceased on the day of his leaving the said territories, or the presidency to which he may have belonged;

Payment to representatives of officers dying during absence. Provided that it shall be lawful for the said company to make such payment as is now by law permitted to be made to the representatives of their officers or servants who, having left their stations intending to return thereto, shall die during their absence.

Disobedience of orders and breach of trust by officers or servants of the company in India, misdemeanors. 80. * * * * every wilful disobeying, and every wilful omitting, forbearing, or neglecting to execute the orders or instructions of the said court of directors by any governor general of India, governor, member of council, or commander in chief, or by any other of the officers or servants of the said company, unless in cases of necessity (the burthen of the proof of which necessity shall be on the person so disobeying or omitting, forbearing or neglecting, to execute such orders or instructions as aforesaid), and every wilful breach of the trust and duty of any office or employment by any such governor general, governor, member of council, or commander in chief, or any of the officers or servants of the said company, shall be deemed and taken to be a misdemeanor at law, and shall or may be proceeded against and punished as such by virtue of this Act.

81 to 83. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.).*]

Laws against illicit residence to be made. 84. * * * * the said governor general in council shall and he is hereby required, as soon as conveniently may be, to make laws or regulations providing for the prevention or punishment of the illicit entrance

(Secs. 86-92.)

into or residence in the said territories of persons not authorized to enter or reside therein.

85. [*Rep. 53 & 54 Vict., c. 33 (S. L. R.).*]

86. * * * * it shall be lawful for any natural-born sub-
ject of his Majesty authorized to reside in the said territories to acquire and
hold lands, or any right, interest, or profit in or out of lands, for any term
of years, in such part or parts of the said territories as he shall be so authorized
to reside in : Lands within
the Indian
territories
may
be purchased.

Provided always, that nothing herein contained shall be taken to prevent the said governor general in council from enabling, by any laws or regulations, or otherwise, any subjects of his Majesty to acquire or hold any lands, or rights, interests, or profits in or out of lands, in any part of the said territories, and for any estates or terms whatever.

87. * * * * no native of the said territories, nor any
natural-born subject of his Majesty resident therein, shall, by reason only
of his religion, place of birth, descent, colour, or any of them, be disabled from
holding any place, office, or employment under the said company. No disability
for office
under the com-
pany in
respect of
religion,
colour, etc.

88. [*Rep. as to U. K. 51 & 52 Vict., c. 57 (S. L. R.) Omitted as being obsolete.*]

89. [*Recital.*] In case it shall please his Majesty to erect, found, and
constitute two bishopricks, one to be styled the bishoprick of Madras and
the other the bishoprick of Bombay, and from time to time to nominate and
appoint bishops to such bishopricks under the style and title of bishops of
Madras and Bombay respectively, there shall be paid from and out of the
revenues of the said territories to such bishops respectively the sum of twenty-
four thousand sicca rupees by the year. If the King
erects bish-
opricks of
Madras and
Bombay, cer-
tain salaries to
be paid to the
bishops.

90. * * * * the said salaries shall commence from the
time at which such persons as shall be appointed to the said office of bishop
shall take upon them the execution of their respective offices ; Such salaries
to commence
from time of
taking office,
and to be in
lieu of all
fees, etc.

and such salaries shall be in lieu of all fees of office, perquisites, emolu-
ments, or advantages whatsoever ;

and no fees of office, perquisites, emoluments, or advantages whatsoever
shall be accepted, received, or taken by such bishop or either of them, in any
manner or on any account or pretence whatsoever, other than the salaries
aforesaid ;

and such bishops respectively shall be entitled to such salaries so long
as they shall respectively exercise the functions of their several offices in the
British territories aforesaid.

91. [*Rep. 43 Vict., c. 3, s. 5.*]

92. Provided always * * * * that such bishops shall not Jurisdiction

(Secs. 93-97.)

of such
bishops.

have or use any jurisdiction, or exercise any episcopal functions whatsoever, either in the said territories or elsewhere, but only such jurisdiction and functions as shall or may from time to time be limited to them respectively by his Majesty by his royal letters patent under the great seal of the said United Kingdom.

The King may
by letters
patent assign
limits to the
dioceses, etc.

93. * * * * it shall and may be lawful for his Majesty from time to time, if he shall think fit, by his royal letters patent under the great seal of the said United Kingdom, to assign limits to the diocese of the bishoprick of Calcutta and to the dioceses of the said bishopricks of Madras and Bombay respectively, and from time to time to alter and vary the same limits respectively, as to his Majesty shall seem fit, and to grant to such bishops respectively within the limits of their respective dioceses the exercise of episcopal functions, and of such ecclesiastical jurisdiction as his Majesty shall think necessary for the superintendence and good government of the ministers of the United Church of England and Ireland therein.

The bishop of
Calcutta to be
Metropolitan
in India.

94. Provided always * * * * that the bishop of Calcutta for the time being shall be deemed and taken to be the metropolitan bishop in India, and as such shall have, enjoy, and exercise all such ecclesiastical jurisdiction and episcopal functions, for the purposes aforesaid, as his Majesty shall by his royal letters patent under the great seal of the said United Kingdom think necessary to direct, subject nevertheless to the general superintendence and revision of the archbishop of Canterbury for the time being; and that the bishops of Madras and Bombay for the time being respectively shall be subject to the bishop of Calcutta for the time being as such metropolitan and shall at the time of their respective appointments to such bishopricks or at the time of their respective consecrations as bishop take an oath of obedience to the said bishop of Calcutta in such manner as his Majesty by his said royal letters patent shall be pleased to direct.

95. [Rep. 53 § 54 Vict., c. 33 (S. L. R.)]

The King *
may grant
certain pen-
sions to
bishops of
Madras and
Bombay.

96. * * * * it shall and may be lawful for his Majesty, his heirs and successors, by warrant under his royal sign manual countersigned by the chancellor of the Exchequer for the time being, to grant to any such bishop of Madras or Bombay respectively who shall have exercised in the British territories aforesaid for fifteen years the office of such bishop, a pension not exceeding eight hundred pounds per annum to be paid quarterly by the said company.

Payments in
respect of
salary of a
bishop of

97. * * * * in all cases when it shall happen the said person nominated and appointed to be bishop of either of the said bishopricks of Madras or Bombay shall depart this life within six calendar months next after

(Secs. 98-100.)

the day when he shall have arrived in India for the purpose of taking upon him the office of such bishop, there shall be payable out of the territorial revenues from which the salary of such bishop so dying shall be payable, to the legal personal representatives of such bishop, such sum or sums of money as shall together with the sum or sums paid to or drawn by such bishop in respect of his salary, make up the full amount of one year's salary;

Madras or
Bombay dying
while in office.

and when and so often as it shall happen that any such bishop shall depart this life while in possession of such office, and after the expiration of six calendar months from the time of his arrival in India for the purpose of taking upon him such office, then and in every such case there shall be payable, out of the territorial revenues from which the salary of the said bishop so dying shall be payable to his legal personal representatives over and above what may have been due to him at the time of his death a sum equal to the full amount of the salary of such bishop for six calendar months.

98. * * * * if it shall happen that either of the bishops of Madras or Bombay shall be translated to the bishoprick of Calcutta, the period of residence of such person as bishop of Madras or Bombay shall be accounted for and taken as a residence as bishop of Calcutta;

Provision
for reckoning
residence of
bishop of
Madras or
Bombay, if
translated to
Calcutta, &c.

and if any person now an archdeacon in the said territories shall be appointed bishop of Madras or Bombay, the period of his residence in India as such archdeacon shall for all the purposes of this Act be accounted for and taken as a residence as such bishop.

99. Provided also * * * * that if any person under the degree of a bishop shall be appointed to either of the bishopricks of Calcutta, Madras or Bombay who at the time of such appointment shall be resident in India, then and in such case it shall and may be lawful for the archbishop of Canterbury, when and as he shall be required so to do by his Majesty by his royal letters patent under the great seal of the said United Kingdom to issue a commission under his hand and seal to be directed to the two remaining bishops, authorizing and charging them to perform all such requisite ceremonies for the consecration of the person so to be appointed to the degree and office of a bishop.

Provision for
consecration
of any person
under the de-
gree of a
bishop, if re-
sident in
India,
appointed to
a bishoprick.

100. * * * * the expences of visitations to be made from time to time by the said bishops of Madras and Bombay respectively shall be paid by the said company out of the revenues of the said territories:

Provision for
expences of
visitations of
bishops of
Madras and
Bombay.

Provided that no greater sum on account of such visitations be at any time issued than shall from time to time be defined and settled by the court of directors of the said company with the approbation of the commissioners for the affairs of India.

(Secs. 101-112.)

No archdeacon to have a salary exceeding 3,000 sicca rupees. 101. * * * * no archdeacon hereafter to be appointed for the archdeaconry of the presidency of Fort William in Bengal or the archdeaconry of the presidency of Fort Saint George, or the archdeaconry of the presidency and island of Bombay, shall receive in respect of his archdeaconry any salary exceeding three thousand sicca rupees per annum:

Proviso as to total expence of church establishment. Provided always that the whole expence incurred in respect of the said bishops and archdeacons shall not exceed one hundred and twenty thousand sicca rupees per annum.

Two chaplains of the Church of Scotland to be on the establishment of each presidency. 102. * * * * of the establishment of chaplains maintained by the said company at each of the presidencies of the said territories, two chaplains shall always be ministers of the Church of Scotland, and shall have and enjoy from the said company such salary as shall from time to time be allotted to the military chaplains at the several presidencies:

Provided always that the ministers of the Church of Scotland to be appointed chaplains at the said presidencies as aforesaid shall be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh whose judgments shall be subject to dissent, protest, and appeal to the provincial synod of Lothian and Tweeddale and to the general assembly of the Church of Scotland:

Proviso as to grants to other sects. Provided always that nothing herein contained shall be so construed as to prevent the governor general in council from granting from time to time, with the sanction of the court of directors and of the commissioners for the affairs of India, to any sect, persuasion, or community of Christians not being of the United Church of England and Ireland, or of the Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

103 to 107. [*Rep. 16 & 17 Vict., c. 95, s. 36.*]

108 to 111. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

Saint Helena vested in the Crown. 112. * * * * the island of Saint Helena, and all forts, factories, public edifices, and hereditaments whatsoever in the said island, and all stores and property thereon fit or used for the service of the government thereof, shall be vested in his Majesty, his heirs and successors;

and the said island shall be governed by such orders as his Majesty in council shall from time to time issue in that behalf.

113 to 117. [*Rep. 37 & 38 Vict., c. 35 (S. L. R.).*]

(Secs. 6-9.)

THE SUPERANNUATION ACT, 1834.¹

(4 & 5 Will. 4, c. 24.)

An Act to alter, amend, and consolidate the Laws for regulating the Pensions, Compensations, and Allowances to be made to Persons in respect of their having held Civil Offices in His Majesty's Service.

[25th July, 1834.]

[Preamble.]

1 to 5. [Rep. 32 & 33 Vict., c. 60, s. 9.]

6.² And whereas the principle of the regulations for granting allowances of this nature is and ought to be founded on a consideration, not only of the services performed by the individual to the state, but of the inadequacy of his private fortune to maintain his station in life:

Be it therefore enacted, that from and after the passing of this Act, whenever any person shall seek to obtain any one of the pensions before mentioned, his application for that purpose shall be made in writing to the commissioners of his Majesty's Treasury, to which he shall subscribe his name, and which shall contain not only a statement of the services performed by him, and the grounds on which such pension is claimed, but a specific declaration that the amount of his income from other sources is so limited as to bring him within the intent and meaning of this Act and the principle herein-above declared ;

and without such declaration no pension as herein-before provided or authorized shall be granted.

7. [Rep. 32 & 33 Vict., c. 60, s. 9.]

8. [Rep. as to U. K. 37 & 38 Vict., c. 35 (S. I. R.). Omitted as being inapplicable to India.]

9. * * * * from and after the passing of this Act the superannuation allowances to be granted to such officers and clerks who shall have entered the public service prior to the fifth day of August one thousand eight hundred and twenty-nine (except only as herein-after is authorized) shall not exceed the following proportions with reference to the amount of their salaries and the periods of their services respectively ; (videlicet,)

To an officer, clerk or person who shall have served ten years and upwards, and under fifteen years, any annual allowance not exceeding in amount four-twelfths of the annual salary and emoluments of his office:
For fifteen years and upwards, and under twenty years, not exceeding five-twelfths of such salary and emoluments:

For twenty years and upwards, and under twenty-five years, not exceeding six-twelfths of such salary and emoluments:

Declaration to be made by persons claiming pensions for political services.

Superannuation allowances to persons who entered the public service before 5th Aug., 1829.

¹ It is doubtful whether this Act need have been included in this Collection.

² By s. 7 of 32 & 33 Vict., c. 60, s. 6 of this Act is applied to pensions under that Act.

(Secs. 12-20.)

For twenty-five years and upwards, and under thirty years, not exceeding seven-twelfths of such salary and emoluments:

For thirty years and upwards, and under thirty-five years, not exceeding eight-twelfths of such salary and emoluments:

For thirty-five years and upwards, and under forty years, not exceeding nine-twelfths of such salary and emoluments:

For forty years and upwards, and under forty-five years, not exceeding ten-twelfths of such salary and emoluments:

For forty-five years and upwards, and under fifty years, not exceeding eleven-twelfths of such salary and emoluments:

And for fifty years or upwards, any annual allowance not exceeding the net amount of the salary and emoluments of his office.

10 and 11. [*Rep. 22 Vict., c. 25, s. 1.*]

Allowances to be calculated on average amount of salary received for the three years before superannuation.

12. Provided always * * * * that the superannuation allowance to be granted to any officer or person after the passing of this Act shall not be computed upon the amount of the salary enjoyed by him at the time of his retirement, unless he shall have been in the receipt of the same, or in the class from which he retires, for a period of at least three years immediately before the granting of such superannuation allowance;

and in case he shall not have enjoyed his then existing salary or have been in such class for that period, such superannuation allowance shall be calculated upon the average amount of salary received by such person for three years next preceding the commencement of such allowance.

13 to 15. [*Rep. 22 Vict., c. 26, s. 1.*]

16. [*Rep. 50 & 51 Vict., c. 67, s. 14.*]

17. [*Rep. 22 Vict., c. 26, s. 1.*]

No compensation on abolition of office, or special allowance, to be charged upon the funds of any department; and no compensation or superannuation allowance to be granted except by order of his Majesty in council.

18. * * * * no compensation for any office abolished, nor any special allowance or remuneration for good services to any person holding or having held any civil office in any public department, shall be charged upon the incidents or any other fund of any such department;

and no such compensation, for any allowance or compensation in the nature of superannuation or retired allowance or reward to any such person in respect of his having held any public office or employment, or having been engaged in any public service, shall be granted, allowed, or paid, other than under the authority of an order of his Majesty in council, or by the commissioners of his Majesty's Treasury or any three or more of them.

19. [*Rep. 22 Vict., c. 26, s. 1.*]

Superannuation allowance to be suspended

20. Provided always * * * * that in case any person enjoying any superannuation allowance in consequence of retiring from office

(Secs. 21-22.)

on account of age, infirmity, or any other cause or enjoying any compensation for past services upon the abolition or reduction of office, shall be appointed to fill any office in any public department every such allowance or compensation shall cease to be paid for any period subsequent to such appointment if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him, and in case they shall not be equal to those of his former office then no more of such superannuation allowance or compensation shall be paid to him than what with the salary of his new appointment shall be equal to that of his former office.

ed or reduced during receipt of salary for efficient services.

21. Provided always * * * * that nothing herein contained with respect to compensation, superannuation, or allowance for civil services shall extend or be construed to extend to any military or naval half pay, or allowance in lieu of half pay, or to any military or naval allowance or pensions granted or to be granted under the regulations of any order of his Majesty in council in any of the respective departments of the commissioners of the Admiralty, the secretary at war, and the master general of the ordnance, except as herein-after is provided with respect to the same.

Act not to extend to military or naval half pay, etc., except as herein-after provided.

22. * * * * between the first day of February and the twenty-fifth day of March in every year, or if Parliament shall not be sitting during any part of that period, then within twenty days after the next meeting of Parliament, there shall be laid before both Houses of Parliament an account of every increase and diminution which shall have taken place within the preceding year, ending on the thirty-first day of December, in the number of persons employed in all public offices or departments under the crown, and in the salaries, emoluments, allowances, and expenses, which shall have taken place, or been paid, granted, received, or incurred for and in respect of all officers and persons, belonging to or employed in all such public offices or departments, specifying the amount and nature thereof, and distinguishing every increase and diminution in the amount of all allowances or compensations granted as retired allowances or superannuations to any person having held any office, place, or employment in any such public office or department, and also the time and length of service of every such person, and the amount of the salary and emoluments received by such person immediately preceding his superannuation or retirement and the nature of his services, and the grounds upon which such increase or diminution in the establishment of every such public office or department, or of any such salary, emolument, allowance, compensation, or superannuation, shall have been granted or made; and also specifying the name of every person receiving such allowance or compensation who may have died in the course of the year, together with the amount of the annual allowance payable to such person.

Account of public offices, salaries, pensions and allowances, and of increase and diminution thereof, to be annually laid before Parliament.

(Secs. 23-30.)

Accounts of compensations and superannuation allowances to be laid before House of Commons annually.

23. Provided always * * * * that accounts of all compensations for offices abolished and of all allowances in the nature of superannuation or retired allowances to all other persons in respect of their having held any public office or employment under the crown shall annually, at the period lastly provided, be laid before the Commons House of Parliament.

24. [*Rep. 22 Vict., c. 26, s. 1.*]

Half pay and military and naval pensions to be laid before Parliament in separate estimates.

25. Provided always * * * * that all [half pay and allowances in lieu of half pay in the several departments of the army, ordnance, navy, and marines, and all military and naval allowances or pensions granted or which shall be granted in any of such departments under the authority of any order in council shall be annually laid before the Commons House of Parliament, in separate estimates, at the same time with the ordinary estimates of those respective departments, and shall be kept distinct from all pensions, compensations, superannuation and retired allowances in any of the civil offices of those departments respectively.

Compensations and superannuations not provided for to be charged on funds of departments.

26. * * * * the compensations, superannuations, and allowances authorized as well by this as any former Act or Acts shall, when not specially provided for by Parliament, be charged upon and paid and payable by the respective departments or offices in which the persons receiving such allowances shall have served.

27. [*Rep. 20 & 21 Vict., c. 37.*]

Where fees form part of the emoluments of an office, an average shall be fixed by the head of the department, on which compensation, etc., shall be granted.

28. * * * * it shall be lawful for the person or persons at the head of any department in which any fees or other sources of profit may form part of the emoluments of any office in such department, to fix, with the approbation of the commissioners of his Majesty's Treasury, or for the commissioners of the Admiralty if the office shall be in that department, an average sum upon which the compensation or superannuation allowance shall be granted, * * * * which sum so to be fixed shall not exceed the average amount of such emoluments for the three last preceding years.

29. [*Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.). Omitted as being inapplicable to India.*]

Act not to give an absolute right to compensation or superannuation allowances, or to prevent dismissal of persons without compensation.

30. Provided always * * * * that nothing in this Act contained shall extend or be construed to extend to give any person an absolute right to compensation for past services, or to any superannuation or retiring allowance under this Act, or to deprive the commissioners of his Majesty's Treasury, and the heads or principal officers of the respective departments, of their power and authority to dismiss any person from the public service without compensation.

31. [*Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.). Omitted as being spent.*]

(Sec. 2.)

THE INDIA (NORTH-WEST PROVINCES) ACT, 1835.¹

(5 & 6 Will. 4, c. 52.)

An Act to authorize the Court of Directors of the East India Company to suspend the Execution of the Provisions of the Act of the Third and Fourth William the Fourth, Chapter Eighty-five, so far as they relate to the Creation of the Government of Agra.

[31st August, 1835.]

[Preamble recites 3 & 4 Will. 4, c. 85, s. 38, as to the division of Bengal into two presidencies.]

1. [Rep. 53 & 54 Vict., c. 33 (S. L. R.). It authorized the directors to suspend the execution of the 3 & 4 Will. 4, c. 85, s. 38. The suspension is continued by 16 & 17 Vict., c. 95, s. 15.]

2. * * * * for and during such time as the execution of such provisions aforesaid shall be suspended by the authority aforesaid, it shall and may be lawful for the governor general of India in council to appoint from time to time any servant of the East India Company, who shall have been ten years in their service in India, to the office of lieutenant-governor of the north-western provinces now under the presidency of Fort William in Bengal * * * *

Governor general, during such suspension, may appoint a lieutenant-governor of the north-western provinces.

THE STATUTORY DECLARATIONS ACT, 1835.²

(5 & 6 Will. 4, c. 62.)

*An Act * * * * to make other Provisions for the Abolition of unnecessary oaths.*

[9th September, 1835.]

[Preamble.]

1. [Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.). Omitted as being inapplicable to India.]

2 to 10. [Omitted as being inapplicable to India.]

11. [Rep. 46 & 47 Vict., c. 57, s. 113.]

12 to 14. [Omitted as being inapplicable to India.]

15. [Recital of 5 Geo. 2, c. 7, and 54 Geo. 3, c. 15.] In any action or suit brought or intended to be brought in any court of law or equity within any of the territories, plantations, colonies, or dependencies abroad, being within and part of his Majesty's dominions, for or relating to any debt or account, wherein any person residing in Great Britain and Ireland shall be a party, or

Declarations substituted for oaths and affidavits required by 5 Geo. 2, c. 7, and 54 Geo. 3, c. 15.

¹ For digest and notes, see Ilbert's *Government of India*, p. 306.

² Words repealed by 53 & 54 Vict., c. 33 (S. L. R.), have been omitted.

³ See *Chitty's Statutes*, Tit. Oaths, p. 1; also *Taylor on Evidence*, Ed. 9, s. 389

(Secs. 16-17.)

for or relating to any lands, tenements, or hereditaments or other property situate, lying, and being in the said places respectively, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing relating thereto by solemn declaration or declarations in writing in the form in the schedule hereunto annexed, made before any justice of the peace, notary public, or other officer now by law authorized to administer an oath, and certified and transmitted under the signature and seal of any such justice, notary public, duly admitted and practising, or other officer; which declaration and every declaration relative to such matter or thing as aforesaid, in any foreign kingdom or state, or to the voyage of any ship or vessel, every such justice of the peace, notary public, or other officer shall be and he is hereby authorized and empowered to administer or receive;

and every declaration so made, certified, and transmitted, shall in all such actions and suits be allowed to be of the same force and effect, as if the person or persons making the same had appeared and sworn or affirmed the matters contained in such declaration *virâ voce* in open court, or upon a commission issued for the examination of witnesses or of any party in such action or suit respectively;

Provided that in every such declaration there shall be expressed the addition of the party making such declaration and the particular place of his or her abode.¹

Declaration in writing sufficient to prove execution of any will, codicil, etc.

16. * * * * it shall and may be lawful to and for any attesting witness to the execution of any will or codicil, deed or instrument in writing, and to and for any other competent person, to verify and prove the signing, sealing, publication, or delivery of any such will, codicil, deed, or instrument in writing, by such declaration in writing made as aforesaid;

and every such justice, notary, or other officer shall be and is hereby authorized and empowered to administer or receive such declaration.

Crown debts in suits on behalf of his Majesty to be proved by declaration.

17.¹ * * * * in all suits now depending or hereafter to be brought in any court of law or equity by or in behalf of his Majesty, his heirs and successors, in any of his said Majesty's territories, plantations, colonies, possessions, or dependancies, for or relating to any debt or account, that his Majesty, his heirs and successors, shall and may prove his and their debts and accounts and examine his or their witness or witnesses by declaration, in like manner as any subject or subject is or are empowered or may do by this present Act.

¹ Ss. 15 and 17 are repealed, so far as they apply to her Majesty's colony of Victoria, 22 & 23 Vict., c. 12, s. 1.

(Secs. 18-21. Schedule.)

18. [*Recital.*] It shall and may be lawful for any justice of the peace, notary public, or other officer now by law authorized to administer an oath, to take and receive the declaration of any person voluntarily making the same before him in the form in the schedule to this Act annexed; Voluntary declaration in the form in the schedule may be taken.

and if any declaration so made shall be false or untrue in any material particular, the person wilfully making such false declaration shall be deemed guilty of a misdemeanor. Making false declaration a misdemeanor.

19. * * * * whenever any declaration shall be made and subscribed by any person or persons under or in pursuance of the provisions of this Act or any of them, all and every such fees or fee as would have been due and payable on the taking or making any legal oath, solemn affirmation, or affidavit shall be in like manner due and payable upon making and subscribing such declaration. Fees payable on oaths shall be paid on declarations substituted in lieu thereof.

20. * * * * in all cases where a declaration in lieu of an oath shall have been substituted by this Act, or by virtue of any power or authority hereby given, or where a declaration is directed or authorized to be made and subscribed under the authority of this Act, or of any power hereby given, although the same be not substituted in lieu of an oath heretofore legally taken, such declaration, unless otherwise directed under the powers hereby given, shall be in the form prescribed in the schedule hereunto annexed. Declarations to be in the form prescribed in schedule.

21. * * * * in any case where a declaration is substituted for an oath under the authority of this Act, or by virtue of any power or authority hereby given, or is directed and authorized to be made and subscribed under the authority of this Act, or by virtue of any power hereby given, any person who shall wilfully and corruptly make and subscribe any such declaration, knowing the same to be untrue in any material particular shall be deemed guilty of a misdemeanor. Persons making false declaration deemed guilty of a misdemeanor.

22 & 23. [*Rep. as to U. K. 37 & 38 Vict., c. 35 (S. I. R.). Omitted as being inapplicable to India.*]

SCHEDULE referred to by the foregoing Act.

I, A.B., do solemnly and sincerely declare, that _____, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the _____ year of the reign of his present Majesty, intituled "An Act [*here insert the title of this Act*]."

(Sec. 4.)

THE STAMP DUTIES ACT, 1835.

(5 & 6 Will. 4, c. 64.)

An Act to alter certain Duties of Stamps and Assessed Taxes, and to regulate the Collection thereof.

[9th September, 1835.]

[Preamble.]

1 & 2. [*Rep. as to U. K. 33 & 34 Vict., c. 99. Omitted as being inapplicable to India.*]

3. [*Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.). Omitted as being inapplicable to India.*]

4. And whereas it is expedient that the bonds to be made and issued by the East India Company for the payment of any definite and certain sum of money should be freed and exempted from all stamp duties upon payment by the said company of an annual sum as a composition for and in lieu of such duties, in the manner herein-after mentioned :

Treasury may
compound
with the East
India Com-
pany for the
stamp duties
on India
bonds.

Be it therefore enacted, that * * * it shall be lawful for the commissioners of his Majesty's Treasury * * * from time to time to compound and agree with the East India Company for the payment by the said company of such an annual sum of money as the said commissioners shall deem to be a reasonable composition for and in lieu of the stamp duties which would otherwise be payable on such bonds as aforesaid, to be made and issued by the said company at any time during the term for which such composition shall be made; which said sum of money so agreed upon shall be paid to the receiver general of stamps and taxes by two equal half-yearly payments on such days in every year during the said term as the said commissioners shall appoint for that purpose, and the payment thereof accordingly shall be secured by the bond of the said company, which is hereby exempted from stamp duty; and every such composition shall be made either for one year or for any term not exceeding five years, at the discretion of the said commissioners, and may be renewed and continued from time to time for any further term not exceeding as aforesaid, and for the payment of the same or any greater or less annual sum, as the said commissioners shall deem to be reasonable; and upon such composition being agreed upon and secured in manner aforesaid all the bonds for the payment of any definite and certain sum or sums of money which shall be made and issued by the said company during the term for which such composition shall be made, renewed, or continued shall be and the same are hereby freed and exempted from all stamp duties.

5. [*Rep. 23 & 24 Vict., c. 5, s. 2.*]

6. [*Rep. as to U. K. 37 & 38 Vict., c. 35 (S. L. R.). Omitted as being inapplicable to India.*]

7. [*Rep. as to U. K. 33 & 34 Vict., c. 99. Omitted as being inapplicable to India.*]

8 & 9. [*Rep. 32 & 33 Vict., c. 14, s. 39.*]

10 to 13. [*Rep. 43 & 44 Vict., c. 19, s. 4.*]

14 to 17. [*Rep. 32 & 33 Vict., c. 14, s. 39.*]

THE INDIA OFFICERS' SALARIES ACT, 1837.¹

(7 Will. 4 & 1 Vict., c. 47.)

An Act to repeal the prohibition of the payment of the Salaries and Allowances of the East India Company's Officers during their absence from their respective stations in India.

[12th July, 1837.]

[*Preamble recites 33 Geo. 3, c. 52; 3 & 4 Will. 4, c. 85.*]

1. So much and such part or parts of the said two Acts passed respectively in the thirty-third year of the reign of his Majesty King George the Third and in the third and fourth years of the reign of his said late Majesty King William the Fourth and of any other Act or provision of the law as enacts that if any governor or other officer whatever in the service of the said company shall leave the presidency to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use, shall not extend to the case of any officer or servant of the company under the rank of governor or member of council who shall quit the presidency to which he shall belong in consequence of sickness, under such rules as may from time to time be established by the governor general in India in council, or by the governor in council of such presidency, as the case may be, and who shall proceed to any place within the limits of the East India company's charter, or to the Cape of Good Hope, or to the Mauritius, or to the island of St. Helena, nor to the case of any officer or servant of the said company, under such rank as aforesaid, who, with the permission of the government of the presidency to which he shall belong, shall quit such presidency in order to proceed to another presidency for the purpose of embarking thence for Europe, until the departure of such officer or servant from such last-mentioned presidency with a view to return to Europe, so as that the port of such departure for Europe shall not be more distant from the place which he shall have quitted in his own presidency than any port of embarkation within such presidency.

So much of the recited Acts, etc., as prohibits the payment of salaries to officers in the service of the East India company during their absence shall not extend to cases of absence for sickness under rules established by governor general in council, etc.

nor to cases of officers quitting one presidency for another, in order to embark for Europe.

2. Provided always * * * * that no such rule so to be established as aforesaid shall have any force or validity until the same shall have been approved by the court of directors of the said company, subject

No such rule valid till approved by court of

¹ For digest and notes, see Ilbert's *Government of India*, p. 306.

The Debtors (Ireland) Act, 1840. (Sec. 66.) [3 & 4 Vict., c. 105.]

directors, subject to the control of the commissioners for affairs of India. to the control of the commissioners for the affairs of India, in like manner as is provided by the said Act of the third and fourth years of the reign of his late Majesty King William the Fourth.

Court of directors, subject to aforesaid control, may direct the refunding of any part of the allowance paid under any such rule. 3. * * * * it shall be lawful for the said court of directors, subject to such control as aforesaid, to direct the refunding by any officer or servant of the said company, or by the representatives of any such officer or servant, of the whole or any part of the salary or allowance which he or they may have received under or by virtue of any such rule so to be established as aforesaid, if it shall appear to the said court, subject to such control as aforesaid, that the permission to such officer or servant to quit the presidency to which he shall belong hath been improperly granted or obtained ;

and such sum as the said court, subject to such control as aforesaid, shall direct such officer or servant or the representatives of such officer or servant to refund, shall be a debt due to the said company, and shall be recoverable by them in any court in like manner as any debt may now or hereafter shall be recovered by them.

THE DEBTORS (IRELAND) ACT, 1840.

(3 & 4 Vict, c. 105.)

*An Act * * * for extending the remedies of creditors against the property of Debtors, and for the further amendment of the Law and the better advancement of justice in Ireland.*

[10th August, 1840.]

* * * * *

66. [Recital of 13 Geo. 3, c. 63 ; 1 Will. 4, c. 22.]

Powers of 13 Geo. 3, c. 63, extended to all the actions in the courts at Dublin when examination of witnesses by commission shall appear necessary. All and every the powers, authorities, provisions, and matters contained in the aid recited Act of the thirteenth year of the reign of his said late Majesty King George the Third, relating to the examination of witnesses in India, shall be and the same are, with reference to all actions in any of her Majesty's courts of law at Dublin, hereby extended to all colonies, islands, plantations, and places under the dominion of her Majesty in foreign parts, and to the judges of the several courts therein, and to all actions depending in any of her Majesty's courts of law at Dublin, in what place or county soever the cause of action may have arisen, and whether the same may have arisen within

the jurisdiction of the court, to the judges whereof the writ or commission may be directed, or elsewhere, when it shall appear that the examination of witnesses under a writ or commission issued in pursuance of the authority hereby given will be necessary or conducive to the due administration of justice in the matter wherein such writ shall be applied for.

67. * * * * * when any writ or commission shall issue under the authority of the said last-mentioned Act and of this Act, or of the power herein-before given by this Act, the judge or judges to whom the same shall be directed shall have the like power to compel and enforce the attendance and examination of witnesses as the court whereof they are judges does or may possess for that purpose in suits or causes depending in such court.

Judges to whom the commission is directed may enforce the attendance, etc., of witnesses.

* * * * *

THE COPYRIGHT ACT, 1842.¹

(5 & 6 Vict., c. 45.)

An Act to amend the Law of Copyright.

[1st July, 1842.]

Preamble.

1. [Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent and inapplicable to India.]

2. * * * * * in the construction of this Act the word "book" shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan separately published;

Interpretation of Act. "Book."

The words "dramatic piece" shall be construed to mean and include every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment;

"Dramatic piece."

The word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied;

The word "personal representative" shall be construed to mean and include every executor, administrator, and next of kin entitled to administration;

"Personal representative."

The word "assigns" shall be construed to mean and include every person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, gift, bequest, or by operation of law, or otherwise;

"Assigns."

The words "British dominion" shall be construed to mean and include all parts of the United Kingdom of Great Britain and Ireland, the Islands of Jersey and Guernsey, all parts of the East and West Indies, and all the

"British dominion."

¹ Extended by the Indian Copyright Act, 1847 (XX of 1847). See *Chitty's Statutes*, Tit. Copyright, p. 16; also *Scrutton's Law of Copyright*, p. 212.

(Secs. 3-4.)

colonies, settlements, and possessions of the crown which now are or hereafter may be acquired;

and whenever in this Act, in describing any person, matter, or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction.

Endurance
of term of
copyright and
property in
any book
hereafter to
be published
in the life-
time of the
author ;

3. * * * * the copyright in every book which shall after the passing of this Act be published in the lifetime of its author, shall endure for the natural life of such author, and for the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns :

Provided always, that if the said term of seven years shall expire before the end of forty-two years from the first publication of such book, the copyright shall in that case endure for such period of forty-two years ;

or after the
author's death.

and that the copyright in every book which shall be published after the death of its author shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published, and his assigns.

In cases of
subsisting
copyright
the term to
be extended
except when
it shall belong
to an assignee
for other
consideration
than natural
love and
affection ; in
which case
it shall cease
at the expiration
of the
present term,
unless its
extension be
agreed to be-
tween the
proprietor and
the author.

4. [*Recital.*] The copyright which at the time of passing this Act shall subsist in any book theretofore published (except as herein-after mentioned) shall be extended and endure for the full term provided by this Act in cases of books thereafter published, and shall be the property of the person who at the time of passing of this Act shall be the proprietor of such copyright :

Provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this Act, but shall endure for the term which shall subsist therein at the time of passing of this Act, and no longer, unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright, shall, before the expiration of such term, consent and agree to accept the benefits of this Act in respect of such book, and shall cause a minute of such consent in the form in that behalf given in the schedule to this Act annexed to be entered in the book of registry herein-after directed to be kept, in which case such copyright shall endure for the full term by this Act provided in cases of books to be published after the passing of this Act, and shall be the property of such person or persons as in such minute shall be expressed.

(Secs. 5-8.)

5. [*Recital.*] * * * * It shall be lawful for the judicial committee of her Majesty's privy council, on complaint made to them that the proprietor of the copyright in any book after the death of its author has refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a licence to such complainant to publish such book, in such manner and subject to such conditions as they may think fit ; and * * it shall be lawful for such complainant to publish such book according to such licence.

Judicial committee of the privy council may license the republication of books which the proprietor refuses to republish after death of the author.

6. * * * * a printed copy of the whole of every book which shall be published after the passing of this Act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published, with any additions or alterations, whether the same shall be in letter press, or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this Act and also of any second or subsequent edition of every book of which the first or some preceding edition shall not have been delivered for the use of the British Museum, bound, sewed, or stitched together and upon the best paper on which the same shall be printed, shall within one calendar month after the day on which any such book shall first be sold, published, or offered for sale within the bills of mortality, or within three calendar months if the same shall first be sold, published, or offered for sale in any other part of the United Kingdom or within twelve calendar months after the same shall first be sold, published, or offered for sale in any other part of the British dominions, be delivered on behalf of the publisher thereof at the British Museum.

Copies of books published after the passing of this Act, and of all subsequent editions, to be delivered within certain times at the British Museum.

7. * * * * every copy of any book which under the provisions of this Act ought to be delivered as aforesaid shall be delivered at the British Museum between the hours of ten in the forenoon and four in the afternoon on any day except Sunday, Ash Wednesday, Good Friday, and Christmas Day, to one of the officers of the said museum, or to some person authorized by the trustees of the said museum to receive the same ;

Mode of delivering copies at the British Museum.

and such officer or other person receiving such copy is hereby required to give a receipt in writing for the same ;

and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this Act.

8. * * * * a copy of the whole of every book, and of any second or subsequent edition of every book containing additions and alterations, together with all maps and prints belonging thereto, which after the

A copy of every book to be delivered within a month after

(Secs. 9-10.)

demand to the officer of the Stationers Company, for the following libraries: the Bodleian at Oxford, the public library at Cambridge, the library of the Faculty of Advocates at Edinburgh, and that of Trinity College, Dublin.

passing of this Act shall be published, shall, on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the Company of Stationers who shall from time to time be appointed by the said company for the purposes of this Act, or under the hand of any other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following, [videlicet,] the Bodleian library at Oxford, the public library at Cambridge, the library of the Faculty of Advocates at Edinburgh, the library of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, be delivered, upon the paper of which the largest number of copies of such book or addition shall be printed for sale in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the hall of the said company, for the use of the library for which such demand shall be made within such twelve months as aforesaid;

and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library.

Publishers may deliver the copies to the libraries, instead of at the Stationers Company.

9 Provided also * * * * that if any publisher shall be desirous of delivering the copy of such book as shall be demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same at such library, free of expense, to such librarian or other person authorized to receive the same (who is hereby required in such case to receive and give a receipt in writing for the same);

and such delivery shall to all intents and purposes of this Act be held as equivalent to a delivery to the said officer of the Stationers Company.

Penalty for default in delivering copies for the use of the libraries.

10. * * * * if any publisher of any such book or of any second or subsequent edition of any such book, shall neglect to deliver the same pursuant to this Act, he shall for every such default forfeit, besides the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds to be recovered by the librarian or other officer (properly authorized) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom, in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

(Secs. 11-13.)

11. * * * * a book of registry wherein may be registered, Book of registry to be kept at Stationers Hall.
 as herein-after enacted, the proprietorship in the copyright of books, and
 assignments thereof, and in dramatic and musical pieces, whether in manuscript
 or otherwise, and licences affecting such copyright, shall be kept at the hall of
 the Stationers Company, by the officer appointed by the said company for the
 purposes of this Act, and shall at all convenient times be open to the inspection
 of any person, on payment of one shilling for every entry which shall be
 searched for or inspected in the said book ;

and such officer shall, whenever thereunto reasonably required, give a copy Copies of entries to be given when required, and to be received in evidence.
 of any entry in such book, certified under his hand, and impressed with the
 stamp of the said company, to be provided by them for that purpose, and which
 they are hereby required to provide, to any person requiring the same, on
 payment to him of the sum of five shillings ;

and such copies so certified and impressed shall be received in evidence in
 all courts, and in all summary proceedings, and shall be *prima facie* proof of
 the proprietorship or assignment of copyright or licence as therein expressed,
 but subject to be rebutted by other evidence, and in the case of dramatic or
 musical pieces shall be *prima facie* proof of the right of representation or per-
 formance, subject to be rebutted as aforesaid.

12. * * * * if any person shall wilfully make or cause to Making a false entry in the book of registry a misdemeanor.
 be made any false entry in the registry book of the Stationers Company, or
 shall wilfully produce or cause to be tendered in evidence any paper falsely
 purporting to be a copy of any entry in the said book, he shall be guilty of an
 indictable misdemeanor, and shall be punished accordingly.

13. * * * * it shall be lawful for the proprietor of copy- Entries of copyright may be made in the book of registry.
 right in any book heretofore published, or in any book hereafter to be published,
 to make entry in the registry book of the Stationers Company of the title
 of such book, the time of the first publication thereof, the name and place of
 abode of the publisher thereof, and the name and place of abode of the pro-
 prietor of the copyright of the said book, or of any portion of such copyright,
 in the form in that behalf given in the schedule to this Act annexed, upon
 payment of the sum of five shillings to the officer of the said company ;

and it shall be lawful for every such registered proprietor to assign his
 interest, or any portion of his interest therein, by making entry in the said
 book of registry of such assignment, and of the name and place of abode of the
 assignee thereof, in the form given in that behalf in the said schedule, on
 payment of the like sum ;

and such assignment so entered shall be effectual in law to all intents and
 purposes whatsoever, without being subject to any stamp or duty, and shall be
 of the same force and effect as if such assignment had been made by deed.

(Sess. 14-16.)

Persons aggrieved by any entry in the book of registry may apply to a court of law in term, or judge in vacation, who may order such entry to be varied or expunged.

14. * * * * if any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Court of Queen's Bench * * * for an order that such entry may be expunged or varied ;

and upon any such application by motion or summons to either of the said courts, or to a judge as aforesaid, such court or judge shall make such order for expunging, varying, or confirming such entry, either with or without costs as to such court or judge shall seem just ;

and the officer appointed by the Stationers Company for the purposes of this Act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

Remedy for the piracy of books by action on the case.

15. * * * * if any person shall, in any part of the British dominions, * * * print or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall import for sale or hire any such book so having been unlawfully printed from parts beyond the seal or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or shall have in his possession, for sale or hire, any such book so unlawfully printed or imported, without such consent as aforesaid,

such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in any court of record in that part of the British dominions in which the offence shall be committed :

Provided always, that in Scotland such offender shall be liable to an action in the court of session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there.

In actions for piracy the defendant to give notice of the objections to the plaintiff's title on which he means to rely.

16. * * * * in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action ;

and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author,

(Sec. 17.)

or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein;

and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication, with the title, time, and place specified in such notice.

17. * * * * it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and re-printed in any country or place whatsoever out of the British dominions;

and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this Act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer;

and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

No person except the proprietor, etc., shall import into the British dominions for sale or hire any book first composed, etc., within the United Kingdom and reprinted elsewhere, under penalty of forfeiture thereof, and also of 10*l.* and double the value. Books may be seized by officers of customs or excise.

(Secs. 18-19.)

Copyright in
encyclopædias,
periodicals,
and works
published
in a series,
reviews, or
magazines.

18. * * * * when any publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this Act ; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act :

Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion separately or singly without the consent previously obtained of the author thereof, or his assigns :

Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right ; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

Proviso for
authors who
have reserved
the right
of publishing
their articles
in a separate
form.

Proprietors of
encyclopædias
periodicals,
and works
published in
a series, may
enter at once
at Stationers
Hall, and

19. * * * * the proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration at Stationers Hall under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first

(Secs. 20-23.)

volume, number, or part thereof, or of the first number or volume first published after the passing of this Act in any such work which shall have been published heretofore, and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof

thereon have the benefit of the registration of the whole.

20. [*Recital of 3 & 4 Will. 4, c. 15.*]

The provisions of the said Act of his late Majesty, and of this Act, shall apply to musical compositions ;

and the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this Act provided for the duration of copyright in books ;

Provisions of recited Act and this Act shall apply to musical compositions ; and the sole liberty of representing dramatic pieces and performing musical compositions shall remain in the author during the term of copyright provided by this Act.

and the provisions herein-before enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this Act, to the first publication of any book :

Provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance.

21. * * * * the person who shall at any time have the sole liberty of representing such dramatic piece or musical composition shall have and enjoy the remedies given and provided in the said Act of the third and fourth years of the reign of his late Majesty King William the Fourth, passed to amend the laws relating to dramatic literary property, during the whole of his interest therein, as fully as if the same were re-enacted in this Act.

Proprietors of right of dramatic representations shall have all the remedies given by 3 & 4 Will. 4, c. 15.

22. * * * * no assignment of the copyright of any book consisting of or containing a dramatic piece or musical composition shall be holden to convey to the assignee the right of representing or performing such dramatic piece or musical composition, unless an entry in the said registry book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right should pass by such assignment.

Assignment of copyright of a dramatic piece not to convey the right of representation.

23. * * * * all copies of any book wherein there shall Books printed

(Secs. 24-26.)

shall become the property of the proprietor of the copyright, and may be recovered by action.

be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such ;

and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detainee, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover.

No proprietor of copyright commencing after this Act shall sue or proceed for any infringement before making entry in the book of registry.

24. * * * * no proprietor of copyright in any book which shall be first published after the passing of this Act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made, in the book of registry of the Stationers Company, of such book, pursuant to this Act :

Provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid :

Proviso for dramatic pieces.

Provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid.

Copyright shall be personal property.

25. * * * * all copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and moveable estate.

General issue.

26¹. * * * * if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence ;

Costs.

and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath ;

Limitation of actions ;

and all actions, suits, bills, indictments, or informations for any offence that shall be committed against this Act, shall be brought, sued, and com-

(Secs. 27-30. *Schedule.*)

menced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect ;

Provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings which under the authority of this Act shall or may be brought, sued, or commenced for or in respect of any copies or books to be delivered for the use of British Museum, or of any one of the four libraries herein-before mentioned.

27. Provided always * * * * that nothing in this Act contained shall affect or alter the rights of the two universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four universities in Scotland, the college of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several colleges of Eton, Westminster, and Winchester, in any copyrights heretofore and now vested or hereafter to be vested in such universities and colleges respectively, anything to the contrary herein contained notwithstanding.

28. Provided also * * * * that nothing in this Act contained shall affect, alter, or vary any right subsisting at the time of passing of this Act, except as herein expressly enacted ;

and all contracts, agreements, and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain in full force, anything herein contained to the contrary notwithstanding.

29. * * * * this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions.

30. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.*]

SCHEDULE to which the preceding Act refers.

No. 1.

FORM of Minute of Consent to be entered at Stationers Hall.

We, the undersigned, A. B. of , the author of a certain book intituled Y. Z. [or the personal representative of the author, as the case may be], and C.D. of , do hereby certify, that we have consented and agreed to accept the benefits of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria, cap. 1, for the extension of the term of copyright therein provided by the said Act, and hereby declare that such extended term of copyright therein is the property of the said A.B. or C.D.

Dated this day of 18 .

Witness .

(Signed) A.B.
C.D.

To the Registering Officer appointed by the Stationers Company.

¹ This blank occurs in the Act as printed in the *Statutes Revised*, Ed. 1893. The reference should, no doubt, be to the Act itself, i. e., to the 5 & 6 Vict., c. 45.

(Schedule.)

No. 2.

FORM of requiring Entry of Proprietorship.

I, A.B. of _____, do hereby certify, that I am the proprietor of the copyright of a book, intituled Y.Z., and I hereby require you to make entry in the register book of the Stationers Company of my proprietorship of such copyright, according to the particulars underwritten.

Title of Book.	Name of Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
Y.Z.		A.B.	

Dated this _____ day of _____ 18 .

Witness, C.D.

(Signed) A.B.

No. 3.

ORIGINAL Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
	Y.Z.	A.B.	C.D.	

No. 4.

FORM of Concurrence of the Party assigning in any Book previously registered.

I, A.B. of _____, being the assigner of the copyright of the book

hereunder described, do hereby require you to make entry of the assignment of the copyright therein.

Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
Y. Z.	A. B.	C. D.

Dated this day of 18 .
(Signed) A. B.

No. 5.

FORM of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
	[Set out the title of the book, and refer to the page of the registry book in which the original entry of the copyright thereof is made.]	A. B.	C. D.

THE INDIAN BISHOPS ACT, 1842.¹

(5 & 6 Vict., c. 119.)

An Act to enable Her Majesty to grant furlough Allowances to the Bishops of Calcutta, Madras and Bombay, who shall return to Europe for a limited Period after residing in India a sufficient time to entitle them to the highest scale of Pension.

[12th August, 1842.]

[Preamble.]

1. In case her Majesty shall be pleased from time to time or at any time to grant permission to any bishop of Calcutta who shall have resided in the East Indies for a period of ten years, and to any bishop of Madras or of Bombay who shall have resided in the East Indies for a period of fifteen

Her Majesty may grant allowance to East India bishops absent on leave.

¹ See Phillimore's *Ecclesiastical Law*, Ed. 2, p 1800. For digest and notes, see *Ilbert's Government of India*, p. 396.

years, to return to Europe for a period not exceeding eighteen calendar months from the time of departure from the East Indies, then and in every such case it shall be lawful for her Majesty, in manner mentioned in an Act of the fifty-third year of the reign of his Majesty George the Third as to the grant of the pension to the bishop of Calcutta, to grant to such bishop of Calcutta, Madras, or Bombay respectively, so returning to Europe, a furlough allowance not exceeding the highest amount of pension which her Majesty is by law empowered to grant to any such bishop, and for a period not exceeding eighteen calendar months from the time of the departure of such bishop from the East Indies.

58 Geo. 3,
c. 155.

Second furlough may be granted.

2. * * * * it shall be lawful for her Majesty to grant to any such bishop who, having obtained such furlough and received such furlough allowance, shall have returned to the East Indies, and have resumed the functions of his office, a second furlough of similar duration and of similar amount, to commence from and after the expiration of five years from the time of such bishop's resuming the exercise of his functions in the East Indies.

Allowance to but one bishop at a time.

3. Provided always * * * * that it shall not be lawful for her Majesty to grant such furlough allowance to more than one such bishop at one and the same time.

Additional allowance to bishop of Madras or Bombay performing functions of bishop of Calcutta absent on furlough.

4. * * * * in case it shall please her Majesty to extend the ecclesiastical jurisdiction and functions of the bishops of Madras and Bombay, or of either of them, so as to enable such last-mentioned bishop, during such absence of the bishop of Calcutta, to perform the functions of the said bishop of Calcutta, then and in that case, so long as the bishop of Madras or the bishop of Bombay shall perform the functions of the bishop of Calcutta, the said bishop of Madras or the bishop of Bombay shall, in addition to his salary as bishop of Madras or Bombay, have and be entitled to a further annual allowance of ten thousand company's rupees for so long time as he shall perform the functions of such bishop of Calcutta.

THE (COLONIES) EVIDENCE ACT, 1843:¹

(6 & 7 Vict., c. 22.)

An Act to authorize the Legislatures of certain of Her Majesty's Colonies to pass Laws for the Admission, in certain Cases, of unsworn Testimony in Civil and Criminal Proceedings.

[31st May, 1843.]

WHEREAS there are resident within the limits of or in countries adjacent to divers of the British colonies and plantations abroad various tribes of bar-

¹See *Chitty's Statutes*, Tit. Colonies, p. 1; also *Taylor on Evidence*, Ed. 2, s. 1378.

barous and uncivilized people, who, being destitute of the knowledge of God and of any religious belief, are incapable of giving evidence on oath in any court of justice within such colonies or plantations :

and whereas doubts have arisen whether any laws which have been or which might be made by the legislatures of such colonies respectively to provide for the admissibility in such courts of the evidence of such persons are not or would not be repugnant to the law of England, and therefore null and void ;

and it is expedient that such doubts should be removed :

1. No law or ordinance made or to be made by the legislature of any British colony for the admission of the evidence of any such persons as aforesaid in any court or before any magistrate within any such colony shall be or be deemed to have been null and void or invalid by reason of any repugnancy or supposed repugnancy of any such enactment to the law of England, but every law or ordinance made or to be made by any such legislature as aforesaid, for the admission before any such court or magistrate of the evidence of any such persons as aforesaid on any conditions thereby imposed, shall have such and the same effect, and shall be subject to the confirmation or disallowance of her Majesty in such and the same manner, as any other law or ordinance enacted for any other purpose by any such colonial legislature.

Colonial laws for admission of the evidence of certain persons shall have the same effect as other laws.

2. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.*]

THE JUDICIAL COMMITTEE ACT, 1843.¹

(6 & 7 Vict., c. 38.)

An Act to make further Regulations for facilitating the hearing of Appeals and other Matters by the Judicial Committee of the Privy Council.

[28th July, 1843.]

[*Preamble.*]

1. [*Rep. as to U. K. 54 & 55 Vict., c. 67 (S. L. R.). Omitted as being inapplicable to India.*]

2. * * * * in respect of all incidents, emergents, dependents, Powers of the and things adjoined to, arising out of, or connected with appeals from any judicial committee and ecclesiastical court, [or from any admiralty or vice admiralty court²] (save in their surrogates in giving a definitive sentence, or any interlocutory decree having the force and effect of a definitive sentence), the said judicial committee and their surrogates respect to interlocutory orders.

¹ The *Chitty's Statutes*, Tit. Privy Council, p. 11.

² The words in square brackets and ss. 9 and 10, so far as relates to maritime causes are repealed by 53 & 54 Vict., c. 27, s. 18, as respects any British possession, or from the commencement of that Act, and, as respects any courts out of Her Majesty's dominions, as from the date of any order applying that Act.

(Secs. 3-7.)

etc., in appeals from ecclesiastical and admiralty courts. shall have full power, subject to such rules, orders, and regulations as shall from time to time be made by the said judicial committee (with the approval of her Majesty in council), to make all such interlocutory orders and decrees, and to administer all such oaths and affirmations, and to do all such things as may be necessary, or the judges of the courts below appealed from or their surrogates in the cases appealed, or the judges of the court appealed to or their surrogates [or the lords commissioners of appeals in prize causes or their surrogates] and the judges delegate or their condelegates under commissions of appeal under the great seal in ecclesiastical and maritime causes of appeal, would respectively have had before an Act passed in the third year of the reign of his late Majesty intituled "An Act for transferring the powers of the high court of delegates, both in ecclesiastical and maritime causes, to his Majesty in council," and the Judicial Committee Act, 1833, were passed.

Who to be surrogates and examiners of the judicial committee in ecclesiastical and admiralty appeals.

3. * * * * the surrogates and examiners of the Arches Court of Canterbury and the High Court of Admiralty of England, and such persons as shall from time to time be appointed surrogates or examiners of the said courts, shall be by virtue of this Act surrogates and examiners respectively of the judicial committee of the privy council in all causes of appeal from ecclesiastical courts and from any admiralty or vice admiralty court.

4. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.*]

Manner of conducting appeals before the judicial committee.

5. * * * * subject to such rules and regulations as may from time to time be made by the said judicial committee with the approval of her Majesty in council, and save and in so much as the practice thereof may be varied by the said Acts of the reign of his late Majesty or by this Act, the said causes of appeal to her Majesty in council shall be commenced within same times, and conducted in the same form and manner and by the same persons and officers as if appeals in the same causes had been made to the Queen in Chancery, the High Court of Admiralty of England or the lords commissioners of appeal in prize causes respectively;

and all things otherwise lawfully done and expedited in the said causes of appeal by the registrar of the High Court of Admiralty of England, his deputy or deputies, in consequence of the passing of the said Acts of the reign of his late Majesty shall be deemed to be valid to all intents whatsoever.

6. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.*]

Punishing contempts, compelling appearances,

7. * * * * for better punishing contempts, compelling appearances, and enforcing judgments of her Majesty in council, and all orders and decrees of the said judicial committee or their surrogates, in all causes of appeal from ecclesiastical courts and from admiralty or vice admiralty courts,

(Secs. 9-11.)

her Majesty in council and the said judicial committee and their surrogates shall have the same powers, by attachment and committal of the person to any of her Majesty's gaols, and subsequent discharge of any person so committed, as by any statute, custom, or usage belong to the judge of the High Court of Admiralty of England; enforcing judgments, etc., in such appeals.

and the said judicial committee shall have the same immunities and privileges as are conferred on the judge of the High Court of Admiralty of England under an Act passed in the fourth year of the reign of her Majesty, intituled "An Act to improve the practice and extend the jurisdiction of the High Court of Admiralty of England," as fully as if the same had been thereby expressly given to the said judicial committee.

8. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being obsolete.*]

9.¹ * * * * all inhibitions, citations, monitions, and other instruments incidental to or arising out of such causes of appeal shall be issued in the name of her Majesty, and under seal of her Majesty, in ecclesiastical and maritime causes, and shall be of full authority in all places throughout the dominions of her Majesty. Inhibitions, etc., in such appeals to be in her Majesty's name and under seal, and of force throughout the British dominions.

10.¹ * * * * in all appeals in ecclesiastical and maritime causes to her Majesty in council it shall be lawful for her Majesty in council, and the said judicial committee or their surrogates at the petition of any person interested in the same, to decree monitions for the transmission of any sum or sums of money respecting which any order or decree may be made or any questions may be depending arising out of such causes, and the proceeds of all ships or vessels, goods and cargoes respecting which any appeals may be depending, into the registry of the High Court of Admiralty and Appeals, for the benefit of the person or persons who may be ultimately entitled thereto, or for payment thereof to the person to whom the same may be lawfully due. Monitions for transmission of sums into the registry of the Admiralty Court in ecclesiastical and maritime appeals, and for payment to persons entitled.

11. * * * * it shall be lawful for her Majesty, by order in council, to direct that all causes of appeal from ecclesiastical courts * * * in which the appeal and petition of reference to her Majesty shall have been lodged in the registry of the High Court of Admiralty and Appeals within twelve calendar months from the giving or pronouncing of any order, decree, or sentence appealed from * * * shall be referred to the judicial committee of the privy council; All appeals from ecclesiastical courts may be referred to the judicial committee by general order in council, and may proceed as if referred by a special order in each case.

and the said judicial committee and their surrogates shall have full power forthwith to proceed in the said appeals and the usual inhibition and citation shall be decreed and issued, and all usual proceedings taken, as if the

¹ See second footnote on page 209.

(Secs. 12-17.)

same had been referred to the said judicial committee by a special order of her Majesty in council in each cause respectively.

Costs may be awarded by the judicial committee, and taxed.

12. * * * * as well the costs of defending any decree or sentence appealed from as of prosecuting any appeal, or in any manner intervening in any cause of appeal, and the costs on either side, or of any party, in the court below, and the costs of opposing any matter which shall be referred to the said judicial committee, and the costs of all such issues as shall be tried by direction of the said judicial committee respecting any such appeal or matter, shall be paid by such party or parties, person or persons, as the said judicial committee shall order,

and such costs shall be taxed as in and by the said Act for the better administration of justice in the privy council is directed respecting the costs of prosecuting any appeal or matter referred by her Majesty under the authority of the said Act, save the costs arising out of any ecclesiastical or maritime cause of appeal, which shall be taxed by the registrar herein-after named, or his assistant registrar.

13. [*Rep. as to U. K. 42 & 43 Vict., c. 59. Omitted as being inapplicable to India.*]

Custody of records, etc., of the Court of Delegates and Appeals.

14. * * * * all records, muniments, books, papers, wills, and other documents remaining in the registry of the High Court of Admiralty and Appeals, appertaining to the late High Court of Delegates and Appeals for Prizes, shall be and remain in the custody and possession of the said registrar of her Majesty in ecclesiastical and maritime causes.

Judicial committee empowered to make rules, etc., respecting practice and mode of proceeding in appeals, etc.

15. * * * * it shall be lawful for the said judicial committee from time to time to make such rules, orders, and regulations respecting the practice and mode of proceeding in all appeals from ecclesiastical and admiralty and vice admiralty courts, and the conduct and duties of the officers and practitioners therein, and to appoint such officer or officers as may be necessary for the execution of processes under the said seal of her Majesty, and in respect to all appeals and other matters referred to them as to them shall seem fit, and from time to time to repeal or alter such rules, orders, or regulations:

Rules to be approved by her Majesty in council.

Provided always, that no such rules, orders, or regulations shall be of any force or effect until the same shall have been approved by her Majesty in council.

16. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.*]

Definition of terms.

17. * * * * in this Act all words denoting a male person shall be taken to include a female also, and all words denoting one person or thing shall be taken to include also several persons or things, unless a contrary sense shall clearly appear from the context;

and the words "Arches Court of Canterbury," used in this Act, shall be construed to extend to such court as shall exercise the jurisdiction of the said court or be substituted for the same;

and wherever the words "ecclesiastical court" have been used in this Act the same shall be construed to extend to such court as shall exercise the jurisdiction or any part of the jurisdiction exercised by any ecclesiastical court or be substituted for the same;

and the words "ecclesiastical and maritime cause of appeal" shall be construed to extend to causes appealed from ecclesiastical courts, and such court as shall exercise the jurisdiction or any part of the jurisdiction exercised by any ecclesiastical court or be substituted for the same.

THE SLAVE TRADE ACT, 1843.¹

(6 & 7 Vict., c. 98.)

An Act for the more effectual suppression of the Slave Trade.

[24th August, 1843.]

[*Recital of 5 Geo. 4, c. 113, s. 2.*] And whereas it is expedient that from and after the commencement of this Act the provisions of the said Act herein-before recited shall be deemed to apply to, and extend to render unlawful, and to prohibit, the several acts, matters, and things therein mentioned when committed by British subjects in foreign countries and settlements not belonging to the British crown, in like manner and to all intents and purposes as if the same were done or committed by such persons within the British dominions, colonies, or settlements;

and it is expedient that further provisions should be made for the more effectual suppression of the slave trade, and of certain practices tending to promote and encourage it:

4, c. 1. All the provisions of the said Consolidated Slave Trade Act herein-before recited and of this present Act shall, from and after the coming into operation of this Act, be deemed to extend and apply to British subjects wheresoever residing or being, and whether within the dominions of the British crown or of any foreign country;

5 Geo. 4, c. 113, and this Act shall apply to all British subjects wheresoever residing.

and all the several matters and things prohibited by the said Consolidated Slave Trade Act or by this present Act, when committed by British subjects, whether within the dominions of the British crown or in any foreign country, except only as is herein-after excepted, shall be deemed and taken to be offences committed against the said several Acts respectively, and shall be dealt with and punished accordingly:

¹ See *Chitty's Statutes*, Tit. Criminal Law, p. 336.

(Sec. 4.)

Provided nevertheless, that nothing herein contained shall repeal or alter any of the provisions of the said Act.

2. [*Rep. 54 & 55 Vict., c. 67 (S. L. R.).*]

3. [*Rep. 36 & 37 Vict., c. 88, s. 30.*]

Evidence may be taken abroad, and transmitted to the court of Queen's Bench, on indictments, etc., for offences under recited Acts and this Act.

4. [*Recital as to insufficiency of Acts for abolition of slave trade out of the United Kingdom.*] In all cases of indictment or information laid or exhibited in the Court of Queen's Bench for misdemeanors or offences committed against the said Acts or against this present Act in any places out of the United Kingdom, and within any British colony, settlement, plantation, or territory, it shall and may be lawful for her Majesty's said court, upon motion to be made on behalf of the prosecutor or defendant, to award a writ or writs of mandamus, requiring the chief justice or other chief judicial officer in such colony, settlement, plantation, or territory, who are hereby respectively authorized and required accordingly, to hold a court, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such indictments or informations respectively, and in the meantime to cause public notice to be given of the holding of such courts, and summonses to be issued for the attendances of witnesses and of agents and counsel of the parties ;

and such examination as aforesaid shall be then and there openly and publicly taken in the said court *vidâ voce*, upon the respective oaths of the persons examined, and be reduced to writing, and be sent to her Majesty in her Court of Queen's Bench (in manner set forth and prescribed in the East India Company Act, 1772) ;

and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read, and shall be deemed as good and competent evidence as if such witnesses had been present and sworn and examined *vidâ voce* at any trial for such misdemeanors and offences as aforesaid in her Majesty's said Court of Queen's Bench, any law or usage to the contrary thereof notwithstanding.

5 & 6. [*Rep. 54 & 55 Vict., c. 67 (S. L. R.).*]

7. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.*] .

(Secs. 2-3.)

THE INTERNATIONAL COPYRIGHT ACT, 1844.¹

(7 & 8 Vict., c. 12.)

An Act to amend the Law relating to International Copyright.

[10th May, 1844.]

[Preamble recites 5 & 6 Vict., c. 45 (hereinafter designated as "the Copyright Amendment Act"); 3 & 4 Will. 4, c. 15 (hereinafter designated as "the Dramatic Literary Property Act"); 8 Geo. 2, c. 13; 7 Geo. 3, c. 38; 17 Geo. 3, c. 57; 6 & 7 Will. 4, c. 59 (hereinafter designated as "the Engraving Copyright Act"); 37 Geo. 3, c. 71; 54 Geo. 3, c. 56 (hereinafter designated as "the Sculpture Copyright Act").]

1. [Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.]

2. * * * * it shall be lawful for her Majesty, by any order of her Majesty in council, to direct that, as respects all or any particular class or classes of the following works, (namely,) books, prints, articles of sculpture, and other works of art, to be defined in such order, which shall after a future time, to be specified in such order, be first published in any foreign country to be named in such order, the authors, inventors, designers, engravers, and makers thereof respectively, their respective executors, administrators, and assigns, shall have the privilege of copyright therein during such period or respective periods as shall be defined in such order, not exceeding, however, as to any of the above-mentioned works, the term of copyright which authors, inventors, designers, engravers, and makers of the like works respectively first published in the United Kingdom may be then entitled to under the herein-before recited Acts respectively or under any Acts which may hereafter be passed in that behalf.

Her Majesty, by order in council, may direct that authors, etc., of works first published in foreign countries shall have copyright therein within her Majesty's dominions for any term not exceeding that for which authors etc., of like works first published in the United Kingdom would be entitled to copyright.

3. * * * * in case any such order shall apply to books, all and singular the enactments of the said Copyright Amendment Act, and of any other Act for the time being in force with relation to the copyright in books first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained, apply to and be in force in respect of the books to which such order shall extend, and which shall have been registered as herein-after is provided, in such and the same manner as if such books were first published in the United Kingdom, save and except such of the said enactments, or such parts thereof, as shall be excepted in such order, and save and except such of the said enactments as relate to the delivery

If the order applies to books, the copyright law as to books first published in this country shall apply to the books to which the order relates, if registered with certain exceptions.

¹ See *Chitty's Statutes*, Tit. Copyright, p. 30; also *Scrutton's Law of Copyright*, Ed. 2, p. 225.

(Secs. 4-5.)

of copies of books at the British Museum, and to or for the use of the other libraries mentioned in the said Copyright Amendment Act.

If the order applies to prints, sculptures, etc., the copyright law as to prints or sculptures first published in this country shall apply to the prints, sculptures, etc., to which such order relates, if registered.

4. * * * * in case any such order shall apply to prints, articles of sculpture, or to any such other works of art as aforesaid, all and singular the enactments of the said Engraving Copyright Acts and the said Sculpture Copyright Acts, or of any other Act for the time being in force with relation to the copyright in prints or articles of sculpture first published in this country and of any Act for the time being in force with relation to the copyright in any similar works of art first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained, respectively apply to and be in force in respect of the prints, articles of sculpture and other works of art to which such order shall extend, and which shall have been registered as herein-after is provided in such and the same manner as if such articles and other works of art were first published in the United Kingdom, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

Her Majesty may, by order in council, direct that authors and composers of dramatic pieces and musical compositions first publicly represented and performed in foreign countries shall have exclusive rights of representation in the British dominions. Enactments relating to similar pieces first publicly represented in this country shall apply to such pieces, if registered.

5. * * * * it shall be lawful for her Majesty, by any order of her Majesty in council, to direct that the authors of dramatic pieces and musical compositions which shall after a future time, to be specified in such order, be first publicly represented or performed in any foreign country to be named in such order, shall have the sole liberty of representing or performing in any part of the British dominions such dramatic pieces or musical compositions during such period as shall be defined in such order, not exceeding the period during which authors of dramatic pieces and musical compositions first publicly represented or performed in the United Kingdom may for the time be entitled by law to the sole liberty of representing and performing the same;

and from and after the time so specified in any such last-mentioned order the enactments of the said Dramatic Literary Property Act and of the said Copyright Amendment Act and of any other Act for the time being in force with relation to the liberty of publicly representing and performing dramatic pieces or musical compositions, shall, subject to such limitation as to the duration of the right conferred by any such order as shall be therein contained, apply to and be in force in respect of the dramatic pieces and musical compositions to which such order shall extend and which shall have been registered as herein-after is provided in such and the same manner as if such dramatic pieces and musical compositions had been first publicly represented and performed in the British dominions, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

(Sec. 6.)

6. Provided always * * * * that no author of any book, dramatic piece or musical composition, or his executors, administrators or assigns, and no inventor, designer, or engraver of any print, or maker of any article of sculpture or other work of art, his executors, administrators, or assigns, shall be entitled to the benefit of this Act, or of any order in council to be issued in pursuance thereof, unless, within a time or times to be in that behalf prescribed in each such order in council, such book, dramatic piece, musical composition, print, article of sculpture, or other work of art, shall have been so registered and such copy thereof shall have been so delivered as herein-after is mentioned (that is to say,) Particulars to be observed as to registry and to delivery of copies;

as regards such book, and also such dramatic piece or musical composition (in the event of the same having been printed), the title to the copy thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the copyright thereof, the time and place of the first publication, representation, or performance thereof, as the case may be, in the foreign country named in the order in council under which the benefits of this Act shall be claimed, shall be entered in the register book of the Company of Stationers in London, and one printed copy of the whole of such book, and of such dramatic piece or musical composition, in the event of the same having been printed, and of every volume thereof, upon the best paper upon which the largest number or impression of the book, dramatic piece, or musical composition shall have been printed for sale, together with all maps and prints relating thereto, shall be delivered to the officer of the Company of Stationers at the hall of the said company; as to books and printed dramatic pieces or musical compositions;

and as regards dramatic pieces and musical compositions in manuscript, the title to the same, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the right of representing or performing the same, and the time and place of the first representation or performance thereof in the country named in the order in council under which the benefit of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London; as to dramatic pieces and musical compositions in manuscript;

and as regards prints, the title thereof, the name and place of abode of the inventor, designer, or engraver thereof, the name of the proprietor of the copyright therein, and the time and place of the first publication thereof in the foreign country named in the order in council under which the benefits of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London, and a copy of such print, upon the best paper upon which the largest number or impressions of the print shall have been printed for sale, shall be delivered to the officer of the Company of Stationers at the hall of the said company; as to prints;

(Secs. 7-9.)

as to sculptures, etc.

and as regards any such article of sculpture, or any such other work of art as aforesaid, a descriptive title thereof, the name and place of abode of the maker thereof, the name of the proprietor of the copyright therein, and the time and place of its first publication in the foreign country named in the order in council under which the benefits of this Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London ;

and the officer of the said Company of Stationers receiving such copies so to be delivered as aforesaid shall give a receipt in writing for the same, and such delivery shall to all intents and purposes be a sufficient delivery under the provisions of this Act.

In case of books published anonymously, it shall be sufficient to register the name, etc., of the publisher.

7. Provided always * * * * that if a book be published anonymously it shall be sufficient to insert in the entry thereof in such register book the name and place of abode of the first publisher thereof, instead of the name and place of abode of the author thereof, together with a declaration that such entry is made either on behalf of the author or on behalf of such first publisher, as the case may require.

The provisions of the Copyright Amendment Act, 5 & 6 Vict., c. 46, as regards entries in the register book of the Company of Stationers, searches, etc., to apply to books, etc., registered under this Act.

8. * * * * the several enactments in the said Copyright Amendment Act contained with relation to keeping the said register book, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the applications to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the books, dramatic pieces, and musical compositions, prints, articles of sculpture, and other works of art, to which any order in council issued in pursuance of this Act shall extend, and to the entries and assignments of copyright and proprietorship therein, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Copyright Amendment Act may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only.

As to expunging or varying of entry grounded on wrongful first publication

9. * * * * every entry made in pursuance of this Act of a first publication shall be *prima facie* proof of a rightful first publication ; but if there be a wrongful first publication, and any party have availed himself thereof to obtain an entry of a spurious work, no order for expung-

(Sec. 10.)

ing or varying such entry shall be made unless it be proved to the satisfaction of the court or of the judge taking cognizance of the application for expunging or varying such entry,

first, with respect to a wrongful publication in a country to which the author or first publisher does not belong, and in regard to which there does not subsist with this country any treaty of international copyright, that the party making the application was the author or first publisher, as the case requires ;

second, with respect to a wrongful first publication either in the country where a rightful first publication has taken place, or in regard to which there subsists with this country a treaty of international copyright, that a court of competent jurisdiction in any such country where such wrongful first publication has taken place has given judgment in favour of the right of the party claiming to be the author or first publisher.

10. * * * * all copies of books wherein there shall be any subsisting copyright under or by virtue of this Act, or of any order in council made in pursuance thereof, printed or reprinted in any foreign country, except that in which such books were first published, shall be and the same are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright thereof, or his agent authorized in writing, and if imported contrary to this prohibition the same and the importers thereof shall be subject to the enactments in force relating to goods prohibited to be imported by any Act relating to the customs ; and as respects any such copies so prohibited to be imported, and also as respects any copies unlawfully printed in any place whatsoever of any books wherein there shall be any such subsisting copyright as aforesaid, any person who shall in any part of the British dominions import such prohibited or unlawfully printed copies, or who knowing such copies to be so unlawfully imported, or unlawfully printed, shall sell, publish, or expose to sale or hire, or shall cause to be sold, published, or exposed to sale or hire, or have in his possession for sale or hire, any such copies so unlawfully imported or unlawfully printed, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought and prosecuted in the same courts and in the same manner, and with the like restrictions upon the proceedings of the defendant, as are respectively prescribed in the said Copyright Amendment Act with relation to actions thereby authorized to be brought by proprietors of copyright against persons importing or selling books unlawfully printed in the British dominions.

Copies of books wherein copyright is subsisting under this Act printed in foreign countries other than those wherein the books were first published shall not be imported, except with consent of registered proprietors, and shall be subject to laws of customs as to prohibited goods. Liability of persons selling such copies or any copies unlawfully printed.

(Secs. 11-19.)

Officer of Stationers Company to deposit books, etc., delivered in the British Museum.

11. * * * * the said officer of the said Company of Stationers shall receive at the hall of the said company every book, volume, or print so to be delivered as aforesaid, and within one calendar month after receiving such book, volume, or print shall deposit the same in the library of the British Museum.

As to depositing copies of second or subsequent editions.

12. Provided always * * * * that it shall not be requisite to deliver to the said officer of the said Stationers Company any printed copy of the second or of any subsequent edition of any book or books so delivered as aforesaid, unless the same shall contain additions or alterations.

Different periods may be specified for continuance of privilege for different foreign countries and classes of works, and times for entries, etc., may be different.

13. * * * * the respective terms to be specified by such orders in council respectively for the continuance of the privilege to be granted in respect of works to be first published in foreign countries may be different for works first published in different foreign countries and for different classes of such works ;

and the times to be prescribed for the entries to be made in the register book of the Stationers Company, and for the deliveries of the books and other articles to the said officer of the Stationers Company, as hereinbefore is mentioned, may be different for different foreign countries and for different classes of books or other articles.

14. [*Rep. 49 & 50 Vict., c. 33, s. 12.*]

Orders to be published in Gazette, and to have effect as if included in this Act.

15. * * * * every order in council to be made under the authority of this Act shall as soon as may be after the making thereof by her Majesty in council be published in the London Gazette, and from the time of such publication shall have the same effect as if every part thereof were included in this Act.

Orders to be laid before Parliament.

16. * * * * a copy of every order of her Majesty in council made under this Act shall be laid before both Houses of Parliament within six weeks after issuing the same, if Parliament be then sitting, and if not, then within six weeks after the commencement of the then next session of Parliament.

17 and 18. [*Rep. 49 & 50 Vict., c. 33, s. 12.*]

Authors, etc., of works first published in foreign countries not entitled to copyright except under this Act.

19. * * * * neither the author of any book, nor the author or composer of any dramatic piece or musical composition, nor the inventor, designer, or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall after the passing of this Act be first published out of her Majesty's dominions, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) as he may become entitled to under this Act.

20. * * * * in the construction of this Act the word "book" shall be construed to include "volume," "pamphlet," "sheet of letter-press," "sheet of music," "map," "chart," or "plan"; Interpretation-clause.

and the expression "articles of sculpture" shall mean all such sculptures, models, copies, and casts as are described in the said Sculpture Copyright Acts and in respect of which the privileges of copyright are thereby conferred;

and the words "printing" and "re-printing" shall include engraving and any other method of multiplying copies;

and the expression "her Majesty" shall include the heirs and successors of her Majesty;

and the expressions "order of her Majesty in council," "order in council," and "order," shall respectively mean order of her Majesty acting by and with the advice of her Majesty's most honourable privy council;

and the expression "officer of the Company of Stationers" shall mean the officer appointed by the said Company of Stationers for the purposes of the said Copyright Amendment Act;

and in describing any persons or things any word importing the plural number shall mean also one person or thing, and any word importing the singular number shall include several persons or things, and any word importing the masculine shall include also the feminine gender; unless in any of such cases there shall be something in the subject or context repugnant to such construction.

21. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.). Omitted as being spent.*]

THE JUDICIAL COMMITTEE ACT, 1844.¹

[7 & 8 Vict., c. 69.]

An Act for amending an Act passed in the Fourth Year of the Reign of His late Majesty, intitled "An Act for the better Administration of Justice in His Majesty's Privy Council"; and to extend its Jurisdiction and Powers.

[6th August, 1844.]

[*Preamble recites 3 & 4 Will. 4, c. 41; 5 & 6 Will. 4, c. 83.*]

1. It shall be competent to her Majesty, by any order or orders to be from time to time for that purpose made with the advice of her privy council, to provide for the admission of any appeal or appeals to her Majesty in council from any judgments, sentences, decrees, or orders of any court of justice within any British colony or possession abroad, although such court shall not be a court of errors or a court of appeal within such colony or possession; Her Majesty by order in council, may provide for the admission of appeals from any court in any colony,

¹ See *Chitty's Statutes*, Tit. Privy Council, p. 15.

(Secs. 8-9.)

although such court shall not be a court of appeal.

and it shall also be competent to her Majesty, by any such order or orders as aforesaid, to make all such provisions as to her Majesty in council shall seem meet for the instituting and prosecuting any such appeals, and for carrying into effect any such decisions or sentences as her Majesty in council shall pronounce thereon :

Provided always, that it shall be competent to her Majesty in council to revoke, alter, and amend any such order or orders as aforesaid, as to her Majesty in council shall seem meet :

Orders may be either general or special.

Provided also, that any such order as aforesaid may be either general and extending to all appeals to be brought from any such court of justice as aforesaid, or special and extending only to any appeal to be brought in any particular case :

General orders to be published.

Provided also, that every such general order in council as aforesaid shall be published in the London Gazette within one calendar month next after the making thereof :

Nothing herein to affect the present powers for regulating appeals from the colonies.

Provided also, that nothing herein contained shall be construed to extend to take away or diminish any power now by law vested in her Majesty for regulating appeals to her Majesty in council from the judgments, sentences, decrees, or orders of any courts of justice within any of her Majesty's colonies or possessions abroad.

2 to 5. [*Rep. 46 & 47 Vict., c. 57, s. 113.*]

6 and 7. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.)*.]

Judicial committee may appoint clerk of privy council to take proofs in matters referred to them.

8. Provided always * * * * that in the case of any matter or thing being referred to the judicial committee it shall be lawful for the said committee to appoint one or other of the clerks of the privy council to take any formal proofs required to be taken in dealing with the matter or thing so referred, and shall, if they so think fit, proceed upon such clerk's report to them as if such formal proofs had been taken by and before the said judicial committee.

Judicial committee may hear appeals addressed to her Majesty in council without special order of reference, if a general order of reference of such appeals

9. * * * * in case any petition of appeal whatever shall be presented, addressed to her Majesty in council and such petition shall be duly lodged with the clerk of the privy council, it shall be lawful for the said judicial committee to proceed in hearing and reporting upon such appeal, without any special order in council referring the same to them, provided that her Majesty in council shall have, by an order in council in the month of November, directed that all appeals shall be referred to the said judicial committee on which petitions may be presented to her Majesty in council during the twelve months next after the making of such order ;

and the said judicial committee shall proceed to hear and report upon all such appeals in like manner as if each such appeal had been referred to the said judicial committee by a special order of her Majesty in council :

to the committee for the next twelve months shall have been issued in November.

Provided always, that it shall be lawful for her Majesty in council at any time to rescind any general order so made ;

and in case of such order being so rescinded all petitions of appeal shall in the first instance be preferred to her Majesty in council, and shall not be proceeded with by the said judicial committee without a special order of reference.

General order may be revoked. Special order then required.

10. * * * * it shall be lawful for the said judicial committee to make an order or orders on any court in any colony or foreign settlement, or foreign dominion of the crown, requiring the judge or judges of such court to transmit to the clerk of the privy council a copy of the notes of evidence in any cause tried before such court, and of the reasons given by the judge or judges for the judgment pronounced in any case brought by appeal or by writ of error before the said judicial committee.

Judicial committee may on appeal require copies of notes of evidence taken, and reasons for judgments given, in the courts of any colony, etc.

11. * * * * it shall and may be lawful for the said judicial committee to make any general rule or regulation, to be binding upon all courts in the colonies and other foreign settlements of the crown, requiring the judges' notes of the evidence taken before such court on any cause appealed, and of the reasons given by the judges of such court, or by any of them, for or against the judgment pronounced by such court ; which notes of evidence and reasons shall by such court be transmitted to the clerk of the privy council within one calendar month next after the leave given by such court to prosecute any appeal to her Majesty in council ;

Judicial committee may make rules, to be binding upon such courts, requiring judges' notes of evidence, reasons of judgments, etc.

and such order of the said committee shall be binding upon all judges of such courts in the colonies or foreign settlements of the crown.

12. [*Rep. 53 & 54 Vict., c. 27, s. 18. Omitted as being in applicable to India.*]

13. [*Rep. as to U. K. 37 & 38 Vict., c. 96 (S. L. R.).*]

THE NAVAL DESERTERS ACT, 1847.

(10 & 11 Vict., c. 62.)

An Act for the Establishment of Naval Prisons, and for the Prevention of Desertion from Her Majesty's Navy.

[2nd July, 1847.]

[*Preamble recites that it is expedient that the Admiralty should have power to establish and regulate naval prisons.*]

1 to 8. [*Rep. 23 & 24 Vict., c. 123, s. 86.*]

* * * * it shall be lawful for the constable of any place where any person reasonably suspected to belong to her Majesty's navy, and to

Apprehension, etc., of persons suspected to

(Sec. 9.)

belong to the navy, and to be deserters, or improperly absent from duty.

be a deserter or improperly absent from his duty, shall be found, or of any adjoining place, and if no such constable can be immediately met with to secure him, then for any person in her Majesty's service, to apprehend or cause such suspected person to be apprehended, and cause him to be brought before any justice in the United Kingdom, or in any of her Majesty's dominions or territories, * * * * in or near such place, who shall examine such suspected person ;

and if by his confession, or the testimony of one or more witness or witnesses upon oath, or by the knowledge of such justice, it shall appear that any person brought before him is a person belonging to her Majesty's navy improperly absent from his duty, such justice shall forthwith cause him to be conveyed to the nearest or most convenient public prison, and shall transmit an account thereof to the Secretary of the Admiralty, or to any commander-in-chief or officer commanding any one of her Majesty's ships or vessels, with a description of such person and the name of the ship or vessel to which he shall or may be suspected to belong, or if any such offender shall be apprehended by any person in her Majesty's service, or shall be apprehended in the vicinity of any one of her Majesty's ships or vessels in commission, then such justice shall order him to be taken on board any such ship or vessel, instead of committing him to prison ;

Reward to person apprehending any such deserter,

and in all cases the justice shall certify the name of the person by whom the offender was apprehended, and such last-mentioned person shall be entitled to a reward for such apprehension, according to the amount which is or may be established by the naval regulations or instructions for the time being in that behalf, or in case the apprehension shall be under circumstances for which no reward is or may be established, the amount of such reward shall be any sum in the discretion of the Lord High Admiral, or the said Commissioners, or of the officer commanding the vessel to which the deserter or person who shall have been improperly absent shall belong, not exceeding three pounds, and the reward shall in every case be paid and charged against the wages or pay of any such offender, and stopped out of the same ;

Fees to clerk of justice,

and for every such information, commitment, or order and account as aforesaid the clerk of the said justice may be entitled to a fee of two shillings and no more, and every gaoler and other person into whose custody any such offender is committed shall immediately upon the receipt of him pay such fee of two shillings and also, upon the production of a receipt from the medical practitioner who may have been required to examine such suspected person, a fee of two shillings and sixpence, and such sums shall be repaid to such gaoler or

medical practitioner examining deserter, etc., and

(Secs. 10-13.)

other person, and the same, together with sixpence for every day the offender shall be in his custody, which shall be paid to such gaoler or other person, shall be charged against the pay or wages of the offender;

gaoler, etc., to whose charge he is committed.

and every gaoler or other person having the custody of any such offender shall deliver him up to any person authorized to take charge of him by the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral, or by any naval commander-in-chief, or the officer commanding any one of her Majesty's ships or vessels, and any person so authorized shall convey him in safe custody on board any one of her Majesty's ships or vessels in commission.

10. * * * * any person who shall voluntarily deliver himself up as and confess himself to be a deserter from any one of her Majesty's ships or vessels, or improperly absent from such ship or vessel, or who while serving in any of her Majesty's forces, or the embodied militia, * * * * shall to any officer or non-commissioned officer thereof confess himself to be a deserter as aforesaid, or improperly absent as aforesaid, or who, upon being apprehended for any offence, shall in the presence of the justice confess himself to be a deserter, or improperly absent from his ship or vessel as aforesaid, and his statement shall not be true, he shall, if received into her Majesty's naval service, be deemed in her Majesty's navy, and be liable to serve and be detained therein as if he had voluntarily entered, or in case such person shall not be received into her Majesty's navy, he shall, on conviction thereof before two justices of the peace, at or near the place where he shall deliver himself up or confess, or where he may at any time happen to be adjudged to be punished, if in England, as a rogue and a vagabond, and if in Scotland or Ireland, by commitment to some prison or house of correction, there to be kept to hard labour for any time not exceeding three months.

Fraudulent confession of desertion, etc., from navy.

11. [*Rep. 29 & 30 Vict., c. 109, s. 85.*]

12. * * * * every governor, gaoler, and keeper of any prison, gaol, or house of correction, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall refuse or neglect to receive or confine, remove, discharge, or deliver up any prisoner or offender as herein prescribed, shall forfeit for every such refusal or neglect the sum of one hundred pounds.

Penalty on governors of prisons, etc., for neglect of duty as to prisoners or offenders.

13. * * * * all penalties and forfeitures imposed by this Act shall and may be recovered, with costs, either by information or complaint, by summary proceedings before any justice or justices of the peace residing in or near to the place where the offence shall be committed or where the offender shall at any time happen to be, and whether the offence be committed

Recovery of penalties.

(Secs. 14-16.)

in or out of her Majesty's dominions, or within the jurisdiction of the Admiralty of England, or not; and

**Commitment
for non-
payment.**

if the sum imposed as a penalty by any such justice or justices shall not be paid either immediately after the conviction or within such reasonable time as such justice or justices shall at the time of the conviction appoint, it shall be lawful for the justice or justices to commit the offender or offenders to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such justice or justices, for any term not exceeding six calendar months, the commitment to be determinable upon payment of the amount and costs;

**Application
of penalties.**

and all penalties and forfeitures recoverable under this Act shall be paid and applied in manner following; (that is to say,) one moiety of such penalty shall be paid to the informer or complainant, and the residue thereof shall be paid to the Commissioners of Greenwich Hospital, any thing in the Municipal Corporation Act, 1835, or in any other Act or Acts of Parliament, to the contrary notwithstanding.

**Power to
summon,
and compel
attendance of
witnesses.**

14¹. * * * * any justice or justices of the peace may summon any witness to appear and give evidence before him or them upon any matter cognizable under this Act, at a time and place appointed for hearing the information or complaint, and by warrant under his hand and seal, or their hands and seals, may require any person to be brought before him or them who shall neglect or refuse to appear to give evidence at the time or place appointed in such summons, proof upon oath being first given of personal service of the summons upon the person against whom such warrant shall be granted;

**Persons
refusing to
appear or give
evidence may
be committed.**

and such justice or justices may commit any person coming or brought before him or them who shall refuse to give evidence to any common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding six calendar months, or until such person shall sooner submit himself to be examined, and in case of such submission the order of any such justice or justices shall be sufficient warrant for the discharge of such person.

15. [*Rep. as to U. K. 55 & 56 Vict., c. 19 (S. L. R.). Omitted as being inapplicable to India.*]

**No certiorari,
etc.**

16. * * * * no conviction under this Act shall be quashed for want of form, or be removed by certiorari or otherwise into any of her Majesty's superior courts of record, and no warrant, commitment, or order for imprisonment shall be held void by reason of any defect therein, provided it be therein alleged that the person has been convicted or ordered to be im-

¹ S. 14, except in so far as it relates to a proceeding under s. 9, rep. as to U. K. 55 & 56 Vict., c. 19 [(S. L. R.).]

prisoned, and there be a good and valid conviction or an offence to sustain the same.

17. [Rep. as to U. K. 38 & 39 Vict., c. 66 (S.L. R.). Omitted as being spent.]

THE COLONIAL COPYRIGHT ACT, 1847.¹

(10 & 11 Vict., c. 95.)

An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.

[22nd July, 1847.]

[Preamble recites 5 & 6 Vict., c. 45, s. 17, and 8 & 9 Vict., c. 93, since repealed.]

1. In case the legislature or proper legislative authorities in any British possession shall be disposed to make due provision for securing or protecting the rights of British authors in such possession, and shall pass an Act or make an ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to her Majesty,

and in case her Majesty shall be of opinion that such Act or ordinance is sufficient for the purpose of securing to British authors reasonable protection within such possession,

it shall be lawful for her Majesty, if she think fit so to do, to express her royal approval of such Act or ordinance, and thereupon to issue an order in council declaring that, so long as the provisions of such Act or ordinance continue in force within such colony the prohibitions contained in the aforesaid Acts, and herein-before recited, and any prohibitions contained in the said Acts, or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such colony;

and thereupon such Act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such order in council, any thing in the said last-recited Act or in any other Act to the contrary notwithstanding.

2. * * * * every such order in council shall, within one week after the issuing thereof, be published in the London Gazette, and a copy thereof, and of every such colonial Act or ordinance so approved as aforesaid by her Majesty, shall, be laid before both Houses of Parliament within six

If any British possession passes an Act or ordinance securing the rights of British authors in such possession, and her Majesty approves of such Act or ordinance, she may, by order in council, suspend during the continuance of such Act, etc., the prohibitions of the recited Acts, etc., against importing, etc., into such possession foreign reprints of books first composed, etc., in the United Kingdom.

Orders in council to be published in Gazette. Orders in council and

¹ See Chitty's Statutes, Tit. Copyright, p. 37; also Scrutton's Law of Copyright, Ed. 2, p. 233.

(Secs. 2-3.)

the colonial
Acts or ordi-
nances to be
laid before
Parliament.

weeks after the issuing of such order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next session of Parliament.

3. [Rep. as to U. K. 38 & 39 Vict., c. 66 (S. L. R.). Omitted as being spent.]

THE INDIAN INSOLVENCY ACT, 1848.¹

(11 & 12 Vict. c. 21.)

An Act to consolidate and amend the Laws relating to Insolvent Debtors in India.

[9th June, 1848.]

[Preamble recites 9 Geo. 4, c. 73 ; 4 & 5 Will. 4, c. 79 ; 9 & 10 Vict., c. 14.]

[1. Repealing recited Acts, rep. as to U. K. 38 & 39 Vict., c. 66 (S. L. R.) ; as to British India, XIV of 1870, [s. 1 and Sch.]

Courts estab-
lished under
9 Geo. 4., c. 73,
for relief of
insolvent debt-
ors, continued
with the same
powers as
heretofore.

2. * * * * the courts established under the first of the said recited Acts for the relief of insolvent debtors in the East Indies shall be continued and shall continue to be Courts of record, with all the same powers as heretofore, and each shall continue to be styled "The Court for the Relief of Insolvent Debtors," and to be holden before any one judge of the supreme courts of judicature at Calcutta, Madras, and Bombay respectively within the respective limits of the said towns of Calcutta, Madras, and Bombay ;

and all the officers of the said courts respectively now established for the relief of insolvent debtors in the East Indies shall be, until removed under the provisions herein-after contained, the officers of the said courts hereby continued respectively ;

and all rules and orders not repugnant to the provisions of this Act now in force in the said courts respectively, and all tables of fees now in force therein, shall, until the same are varied or repealed, continue in force in like manner to all intents and purposes as if the Acts in force with respect to insolvent debtors before this Act comes into operation had been continued by this Act.

Times for
holding
courts.

3. * * * * a court for the relief of insolvent debtors shall be holden once a month at least throughout the year, and oftener if need be, in Calcutta, and, so often as may be found necessary within the towns of Madras and Bombay, by any one judge of the said supreme courts of judicature respectively ;

and it shall be lawful for each of the said courts to sit for the despatch of business at one and the same time with the said supreme court of its presidency ;

¹ Extended by Act XI of 1889, s. 50.

(Sec. 4.)

and every advocate and attorney of the said supreme courts at Calcutta, Madras, and Bombay respectively shall be entitled to practise in the way of his profession in the court for the relief of insolvent debtors of that presidency, and no other persons shall practise as advocates or attorneys in the said courts for the relief of insolvent debtors;

and the said supreme courts of judicature respectively shall have power from time to time to make rules to regulate the proceedings of the courts hereby continued for the relief of insolvent debtors to be holden within their respective jurisdictions and from time to time to vary and repeal, in whole or in part, any of the rules and orders and any table of fees now in force in the said courts respectively for the relief of insolvent debtors in the East Indies and especially to provide in what manner notice shall be given to the creditors of parties applying for relief under this Act, and in what cases besides those mentioned in this Act costs may be awarded, and shall prepare and cause to be sealed with their respective seals a sufficient and proper list of fees to be charged and received by the officers of the said courts for the relief of insolvent debtors of their respective presidencies, and shall certify under their seals, and transmit to the President of the Board of Commissioners for the Affairs of India, copies of such rules and lists of fees, to be laid before her Majesty, for her royal approbation, correction, or revision;

Rules for proceedings, and tables of fees.

and other copies of the same shall at all times be fixed in conspicuous places in the courts for the relief of insolvent debtors,

and no other fee or gratuity shall be received or taken by any officer or attorney of such last-mentioned courts, on any pretence whatsoever except such as shall be specified in such lists.

4. * * * her Majesty's supreme courts of judicature at Calcutta, Madras, and Bombay respectively shall have power from time to time to remove any of the officers of the courts hereby continued as the courts for the relief of insolvent debtors within their respective presidencies and to make such reductions in the number and in the emoluments of such officers as may be practicable and to them shall seem fit and from time to time to appoint such persons as may be necessary to transact the business of such courts, and from time to time to annul all or any of such appointments and to reduce the number of such officers in case the number of the same may be conveniently reduced;

Appointment and emoluments of officers.

and each of the said courts hereby continued shall cause to be sealed with the seal of the said courts all such records, proceedings, documents, and copies of the same as are herein-after expressly required to be so sealed, and such other

Records, etc. to be sealed with the seal of the court.

(Sec. 4.)

records, proceedings, documents, and copies of the same, as the said court shall at any time direct;

Powers of court to adjourn sittings, administer oaths, etc.

and the said courts respectively may adjourn any of their sittings from time to time and to such time as may be requisite, and shall have power to administer oaths, or in the case of such persons as shall object on the ground of any religious or conscientious scruples to take an oath, solemn affirmation, and shall examine all parties and witnesses upon oath or such solemn affirmation for the purposes of this Act;

Powers of courts as to witnesses and evidence.

and the said courts respectively shall have the like powers of issuing commissions to take evidence as now are or may be hereafter possessed by the supreme courts respectively of their several presidencies, and shall have the like powers of compelling the attendance of the insolvent and all other parties at all times when their attendance may be deemed requisite by the said court, and of all witnesses or any other persons who may be able to give any information respecting the debts, estates, and effects of such insolvent, before the said courts respectively, or before any officer of the said courts respectively, and of requiring and compelling the production of books, papers, and writings, as now are or may hereafter be possessed by the supreme courts respectively, of the respective presidencies or as are given to commissioners of bankrupts by an Act passed in the sixth year of the reign of his late Majesty King George ^{6 Geo. 4,} the Fourth, intituled, "An Act to amend the laws relating to bankrupts" ^{c. 16.};

Power of courts to order prisoners to be brought up as often as requisite;

and each of the said courts hereby continued for the relief of insolvent debtors shall have power to order any prisoner whose estate shall be vested in any assignee under the provisions of this Act, or of any of the Acts hereinbefore referred to, or any prisoner who shall be a necessary and material witness in any matter pending in the said court to be brought before the said court, or officer often as shall be requisite, which order alone shall be a sufficient authority and protection to the gaoler or officer or person in whose custody he may be for the production of such prisoner;

and to fine and commit persons guilty of contempt; and to fine and remove officers.

and each of the said courts shall have the power of fining in a summary way, and of committing until such fine be paid, or of committing in the first instance without fining, all persons guilty of contempt of the said court, and of fining in a summary way, and of removing any of the officers of the said courts who shall be guilty of negligence, wilful or unnecessary delay or other misconduct:

Costs.

Provided always that the said courts for the relief of insolvent debtors shall not have the power of awarding costs against any person, except in cases in which it is expressly permitted by this Act, or in which it shall be expressly permitted by any rule which shall be made by the said supreme

(Secs. 5-7.)

courts respectively as to costs to be awarded in the said courts for the relief of insolvent debtors respectively.

5. * * * * any person who shall be in prison within the respective limits of the towns of Calcutta, Madras, and Bombay, upon any process whatsoever, for or by reason of any debt, damages, costs, or money which such person is solely or jointly with any other liable to pay, or for or by reason of any contempt of any court whatsoever for non-payment of money only, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, or in any manner in consequence of or by reason of such contempt, or who shall reside within the jurisdiction of any of the supreme courts at Calcutta, Madras, and Bombay, respectively and being indebted on account of any such liability as aforesaid, shall be in insolvent circumstances, may at any time apply by petition to the court for the relief of insolvent debtors within the presidency where such insolvent debtor shall then be, for the benefit of the provisions of this Act, which petition may be in the form in the schedule (A) to this Act, or the schedule (B) to this Act, (as the case may require,) with such additions and variations as may be necessary to adapt it to the particular case;

Persons imprisoned for debts, or in insolvent circumstances, may petition the court for relief according to the forms in the schedules (A) or (B) to this Act.

and such petition shall be subscribed by the said prisoner, and shall forthwith be filed in the said court to which it shall be presented;

and if any such person as aforesaid shall be jointly indebted, it shall be lawful for them to apply jointly by petition, in such manner as is hereinbefore mentioned, and under such joint petition, the joint estate and the separate estates of such petitioners shall be dealt with and distributed.

6. * * * * where any such petition for relief as is aforesaid shall be presented by any such insolvent to the said court for the relief of insolvent debtors, the party presenting the petition, at the same time, or within such further time as the said court may deem reasonable, shall deliver into the court a schedule in the form in the schedule (C) to this Act annexed with such additions and variations as may be necessary to adapt it to the particular case, containing a full and true description as to all matters and things required to be set forth therein, so far as the same can be described or set forth;

Party petitioning to deliver in a schedule in the form in schedule (C).

and the said schedule shall be subscribed by such petitioner and shall forthwith be filed in the said court.

7. * * * * upon the filing of any such petition as is aforesaid it shall be lawful for the said court, and the said court is hereby authorized and required, to order that all the real and personal estate and effects of such petitioner, whether within the territories within the limits of the charter of the East India Company or without, except the wearing apparel, bedding and

Upon filing of petition, court may order the real and personal estate of petitioner to be vested in

(Sec. 8.)

official
assignee as
court shall
direct.

other such necessaries of such petitioner and his family, and the working tools and implements of such petitioner and his family not exceeding in the whole the value of Company's rupees three hundred for each petitioner with his family, and all debts due to him, and all the future estate, right, title, interest, and trust of the said petitioner in or to any real or personal estate or effects within or without the said territories which such petitioner may purchase, or which may revert, descend, be devised or bequeathed or come to him, and all debts growing due to him before the court shall have made its order in the nature of a certificate as herein-after mentioned, do vest in the official assignee for the time being of the said court, and that all books, papers, deeds, and writings in any way relating to such petitioner's estate and effects in his possession, or under his custody or control, shall be deposited with such assignee ;

and such order shall be entered of record in the said court, and such notice thereof shall be published as the said court shall direct ;

Order to relate
back to filing
of petition.

and such order, when so made, shall by virtue of this Act relate back to and take effect from the filing of the said petition, and shall instantly, and without any conveyance or assignment, vest all the real and personal estate, effects, and debts as aforesaid in the said official assignee, who shall have full powers for the recovery thereof, and shall hold and stand possessed of the same for the purposes and in manner herein-after mentioned :

In case, after
making vest-
ing order,
petition be
dismissed,
vesting order
to be null and
void ; but all
acts done by
any assignee,
etc., under
this Act to be
held valid.

Provided always, that in case after the making of any such vesting order the petition of any such petitioner shall be dismissed by the said court, such vesting order made in pursuance of such petition shall from and after such dismissal be null and void to all intents and purposes :

Provided also that in case any such vesting order as aforesaid shall become null and void by the dismissal of such petition, all acts theretofore done by any assignee or other person acting under his authority according to the provisions of this Act shall be good and valid, and no action or suit shall be commenced against any such assignee, nor against any person duly acting under his authority, except to recover any property of such petitioner detained after an order made by the said court for the delivery thereof and demand made thereupon.

* * * * *

Lying in pri-
son twenty-one
days for
debt shall
be deemed an
act of insol-
vency, on
which creditor

8. * * * * * if any person who shall be in prison within the respective limits of the towns of Calcutta, Madras, and Bombay, charged in execution for any debt or damages, or any costs or sum or sums of money or committed for or by reason of any contempt of any court whatsoever for non-payment of money, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, or

(Sec. 9.)

in any manner in consequence or by reason of such contempt, shall not, within twenty-one days next after such prisoner shall have been so charged in execution or committed as aforesaid, make satisfaction to the creditor or creditors at whose suit such prisoner shall have been so charged in execution or committed for such debt, damages, costs, sum or sums of money, or to the person or persons entitled to the money for nonpayment of which such prisoner shall have been in contempt, or to the payment of which such prisoner would be liable in consequence or by reason of such contempt;

may petition
in form No. 1
in Schedule
(D).

then and in any of the said cases it shall be lawful for any such creditor or creditors or person or persons entitled to such money as aforesaid to present a petition to the court for the relief of insolvent debtors of the presidency within which such person shall have been so imprisoned, which petition may be in the form No. 1 in the Schedule (D) to this Act annexed, with such additions or variations as may be necessary to adapt it to the particular case;

whereupon, and upon such petition being duly verified, it shall be lawful for the court to adjudge that such prisoner has committed an act of insolvency :

Adjudication
on petition.

Provided always, that it shall be lawful for the said court, upon the petition of any person adjudged to have committed an act of insolvency as aforesaid, and upon proof of notice to the creditor or creditors upon whose petition such adjudication shall have been made, to revoke or confirm such adjudication.

9. * * * * * if any person who, by an Act passed in the sixth year of the reign of King George the Fourth, intituled "An Act to amend the laws relating to bankrupts," or an Act passed in the session held in the fifth and sixth years of the reign of her present Majesty, intituled "An Act for the amendment of the law of bankruptcy," or any other Act now in force or hereafter to be passed; would be deemed a trader liable to become bankrupt, having been arrested or committed to prison for debt, or for or by reason of any contempt of any court whatsoever, for nonpayment of money only, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, shall upon such or any other arrest or commitment for debt or nonpayment of money or costs as aforesaid lie in prison twenty-one days, or having been arrested or committed to prison for any other cause shall be in prison for twenty-one days after any detainer for debt, nonpayment of money or costs as aforesaid, lodged against him and not discharged, or if any such person shall depart from within the limits of the jurisdiction of any of the said supreme courts with intent to defeat or delay his creditors, or with the like intent depart from his

Petitions on
acts of insol-
vency by
traders.

4, c.

16 Viet.,
122.

(Secs. 10-11.)

usual place of business or abode within the said jurisdiction, or make with like intent any fraudulent gift, grant, conveyance, delivery, or transfer of any of his lands, tenements, money, goods, or chattels, or fraudulently with like intent suffer his lands, money, goods, or chattels to be taken in execution, attached, or sequestered,

it shall be lawful for any person being a creditor, or for two or more persons being partners in trade and creditors to the amount of Company's rupees five hundred, or for any two creditors to whom such person shall be indebted to the amount of seven hundred Company's rupees, or for any three or more creditors to whom such person shall be indebted to the amount of Company's rupees one thousand, to present a petition to the court for the relief of insolvent debtors of the presidency within which such person shall have been so imprisoned or have resided at the time of such departure, or of such fraudulent gift, grant, conveyance, delivery, transfer or fraudulent execution, attachment, or sequestration, which petition may be in the form No. 2 in the Schedule (D) to this Act annexed, with such additions and variations as may be necessary to adapt it to the particular case;

Adjudication
on petition.

whereupon, and upon such petition being duly verified, it shall be lawful for the court to adjudge that such person has committed an act of insolvency:

Provided always, that it shall be lawful for the said court, upon the petition of any person adjudged to have committed an act of insolvency as aforesaid, and upon proof of notice to the creditor or creditors upon whose petition such adjudication shall have been made, to revoke or confirm such adjudication.

Creditor
whose demand
at the time
of act of
insolvency is
not then due
may petition
or join in
petition.

10. * * * * every person who shall have given credit to any trader upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such trader committed any act of insolvency within the meaning of this Act, may so petition or join in petitioning as is aforesaid, whether he shall have had any security for such sum or not.

On adjudica-
tion of act
of insolvency,
vesting order
to be made
and take
effect, and to
be void if
adjudication
is revoked, as
where the
petition is
presented by
the insolvent.

11. * * * * upon any such adjudication being made as herein-before is mentioned the said court is hereby authorized and required to make the like vesting order as herein-before is authorized to be made in the case of a petition by an insolvent debtor, which said vesting order shall in like manner be entered of record and notified as is herein-before mentioned, and shall, when made, take effect by relation from the filing of the petition on which the adjudication shall have proceeded;

and such order shall, when made, vest in like manner all the said estate and effects, right, title, and interest, trust and debts of the insolvent in the official assignee, in like manner, and as fully, and with the like effect, as is

(Secs. 12-13.)

herein-before mentioned, and which said vesting order shall, in case of the adjudication being for any reason revoked, be thenceforth null and void, to all intents and purposes, in like manner, and with the like effect, and under the same qualifications as herein-before is mentioned.

12. Provided always * * * * that after the adjudication of an act of insolvency in any of the cases aforesaid it shall be lawful for the court to direct, and it is hereby required to direct, the insolvent to file, within a time to be named by the court, and the said insolvent is hereby directed and required to file accordingly, a schedule in the form in Schedule (C) to this Act annexed, in the court by which such adjudication shall have been pronounced ;

Court on such adjudication shall direct insolvent to file a Schedule in form in Schedule (C).

and the court shall be at liberty to proceed thereupon in like manner as in the case of an insolvent presenting a petition for relief under this Act.

13. * * * * in any case where a petition shall have been presented by an insolvent debtor as aforesaid, or an act of insolvency shall have been adjudged to have been committed as aforesaid, it shall be lawful for the said court, after the filing of the schedule required by this Act, if under the circumstances it shall appear proper, to make an interim order for the protection of the insolvent from arrest, and any such interim order may apply either to all the debts or liabilities mentioned in the said schedule, or to any of them, as the court may think proper, and may commence and take effect at such time as the court shall direct ;

Interim order for protection of insolvent.

any such order may be recalled, and may be renewed, as to the court may appear proper ;

and any such order, when so made, shall protect the person to whom it shall be given from being arrested or detained in prison for any debt or liability to which such order shall apply within the limits of the towns of Calcutta, Madras, and Bombay respectively, or any other place within the territories under the government of the East India Company ;

and any person arrested or detained contrary to the tenor and effect of any such order shall be entitled to his discharge out of custody, upon application to any court or judge which or who shall have power to set at large persons illegally detained in custody under the process by virtue of which such person shall have been arrested or be so detained :

Provided always that no such order shall operate as a release or satisfaction of the debt or demand of any creditor, nor prejudice the right of any such creditor to arrest the insolvent, whether he shall or not have been previously arrested for the same debt or demand, in case the order shall be recalled, or

Order not to operate as a release, or prevent arrest if order be recalled or

(Secs. 14-16.)

fall by petition being dismissed or adjudication annulled. Judges of supreme courts to appoint an official assignee for each court.

shall fall by reason of the petition of the insolvent being dismissed, or the adjudication being reversed.

14. * * * * there shall be appointed by the chief justice of the supreme court at each of the said presidencies, or in the case of any vacancy in the office of chief justice, then by the senior judge for the time being of such court, one person to each court for the relief of insolvent debtors in each of the said presidencies respectively, to be the official assignee in all insolvencies in the course of prosecution at the time when this Act shall take effect, or to be afterwards prosecuted in the said court;

and every such official assignee shall at all times be by virtue of such his appointment, and without any other assignment, an assignee of every such insolvent's estate and effects, together with any other assignee or assignees, or solely, according as there may or may not be then or afterwards any other assignee or assignees of such estate or effects.

Official assignees to give security, and be subject to rules.

15. * * * * every such official assignee shall give such security, and shall be subject to such rules, and shall act in such manner, as the judges of the supreme court shall direct by any rules¹ and orders of the said court, to be approved of by the Governor General of India in council, and to be transmitted to the President of the Board of Commissioners for the Affairs of India, to be laid before her Majesty for her royal approbation, correction, or revision;

Insolvents' estates to be received by official assignee alone, except when directed by the court to be received by official and special assignees.

and all the moveable estate and effects, and the rents and profits of all immoveable estate, and the proceeds of sale of all the estate and effects of the insolvent, shall in every case be possessed and received by such official assignee alone, save where it shall be expressly directed by the court for the relief of insolvent debtors to be possessed and received by such official assignee and the special assignee or assignees (if any), which the said court shall have power, if it think fit, to direct, and in all cases of such receipt and possession shall, within seven days, be paid, delivered, or transferred by such official assignee or such official assignees and other assignee or assignees as aforesaid to and be kept in deposit in such public bank or other safe place of deposit, and be managed and dealt with as the judges of the supreme court shall have directed or may direct by any rules or order of the said court, to be approved of by the Governor General in council, and to be transmitted, for approbation, correction, or revision, in manner aforesaid.

Appointment of official

16. * * * * upon the death, resignation, or removal from office of each such official assignee, another official assignee shall be

¹ See the Indian Insolvency Rules Act, 1898 (X of 1898).

(Secs. 17-19.)

appointed in his place, in the like manner as upon the first of each of such ap- assignees on
pointments. vacancies.

17. * * * * at any time after the making of any such On applica-
vesting order as aforesaid, or after any such adjudication of insolvency as afore- tion of credit-
said, if any creditor or creditors of any such insolvent trader as aforesaid shall ors, after
be desirous that an assignee or assignees of the insolvent's estate and effects vesting orders,
shall be chosen by the creditors, he or they shall be at liberty to apply in etc., court may
writing, by petition to the court, that such election shall take place; order an elec-
tion of special
assignees by
the creditors.

and thereupon a time and place for such election shall be appointed by the court;

and all creditors whose debts amount to one hundred rupees and upwards, who shall be included in the schedule as creditors, or who shall have proved their debts, shall be entitled to vote in such choice, and the choice shall be made by the major part in value of the creditors so entitled to vote;

and the person or persons so elected shall be appointed by the court a special assignee or special assignees of the estate of the said insolvent:

Provided that any creditor shall be at liberty to give notice to any other person whose name is included in the schedule of the insolvent as a creditor, but who shall not have proved his debt, to prove his debt before he shall be admitted to vote on such election, and in such case such party shall not be entitled to vote until he shall have proved his debt.

18. * * * * the court may at any time, in case of Power of
the unwillingness to act. removal from out of the jurisdiction of the court, court to re-
incapacity, or misconduct, of any official assignee, or of any assignee appointed move assign-
ees.
by the court on the election of the creditors, or for any other cause appearing Thereupon, or
to the court sufficient, by its order annul such appointment, and thereupon, or on death of
in the case of the death of any such official assignee or other assignee, others to be
shall be appointed: appointed.

Provided that if it be the case of a chosen assignee such appointment New special
shall not be made unless some creditor or creditors shall apply in writing, by assignees not
petition to the said court, that an election of another person as assignee may to be elected
be had, and thereupon the court shall proceed in all respects in like manner, except on pe-
and such election shall be made, conducted, and declared in all respects in like tion of
manner, as is herein-before directed as to the election of assignees by creditors. creditors.

and no act or thing done prior to the order whereby such appointment is so vacated shall be annulled or in any way affected.

19. * * * * no remuneration whatever, whether in No remunera-
the shape of commission or otherwise, shall be received by any assignee, except tion to be
in the manner nor beyond the extent herein-after allowed, (that is to say,) the received by

(Sec. 20.)

assignee, except as herein provided.

court may allow a fair remuneration to the assignee or assignees out of the sum to be distributed as dividends, and make an order accordingly:

Provided always, that the court shall not have power to order any remuneration to be made to any assignee or assignees chosen by the creditors, unless the creditors shall at the time of the election declare that some remuneration is to be made to the assignee or assignees chosen by them, and at what rate such remuneration is to be made, and in such case the court shall have power to reduce but not to increase, the amount of such last-mentioned remuneration.

Estate, and books, papers, etc., to vest, without conveyance or assignment, in new assignee.

20. * * * * on every appointment of a new assignee the estate, effects, rights, and powers which would otherwise remain or be in the former assignee or assignees shall immediately, by virtue of such appointment, and without any conveyance or assignment in any case whatever, vest in the actual assignee or assignees, in trust for the benefit of the creditors of such insolvent, in respect of and in proportion to their respective debts, according to the provisions of this Act;

and all books, papers, deeds, and writings in any way relating to the estate and effects of the insolvent shall be transferred to and deposited with such assignee or assignees as last aforesaid, and from time to time, on each change of assignees, shall be transferred to the possession of the assignee or assignees for the time being of such insolvent;

Delivery thereof may be enforced.

and the court shall have power to compel any assignee or assignees whose appointment may be vacated, or the heirs, executors, administrators, or assigns of any person once appointed such assignee and deceased, to account for and deliver up all such estates and effects, books, papers, writings, deeds, and all other evidences relating thereto, as shall have come to his or their hands, and the decision of the court thereupon shall be final and conclusive;

Actions, etc., not to abate by death, etc., of assignee.

and whenever any assignee shall die, or be removed from his office, and any other assignee or assignees shall be appointed as aforesaid, no action at law or suit in equity brought or defended by him or them in the character of assignee or assignees shall be thereby abated, but upon the suggestion of each such death, removal, or new appointment such action or suit shall be prosecuted or defended in the name of the existing assignee or assignees; and any real and personal estate, money and effects vested in or possessed by any official assignee shall not remain in him if he shall resign or be removed from his office, nor in his heirs, executors, or administrators, in case of his death, but shall in every such case go to and be vested in his successor in office, by relation for the time of his resignation, removal, or death, as the case may be;

and every such appointment of any assignee other than the official assignee shall be entered of record of the said court, and such notice thereof

(Secs. 21-24.)

shall be published as the said court shall direct, and every such assignee so appointed shall be liable to the control of the court, in like manner as any officer of the said court.

21. * * * * every such assignee as aforesaid shall with all convenient speed take possession, by himself, or by means of messengers of the court, or by other fit and proper persons, of all the real and personal estate and effects of the insolvent of which immediate possession may be obtained, and shall use his best endeavours to seize, obtain, recover, and reduce into possession, as speedily as possible, the rest of such estate and effects, and all debts, claims and choses in action, which by virtue of his appointment under this Act, and of the vesting order or adjudication aforesaid, he shall have been empowered to obtain, recover, and get in.

Assignees to take possession of and realize estates.

22. * * * * after any such vesting order shall be made as aforesaid no distress for rent due before such vesting order shall be made upon the goods and effects of the insolvent;

After vesting order, no distress for rent previously due shall be made but landlord shall be entitled to prove for the amount.

but the landlord or party on whom the rent should be due shall be entitled to prove in respect of such rent so due as aforesaid whether the same shall or not be inserted in the schedule of the insolvent, and to receive a dividend in respect of the said rent, and shall not, unless the petition of such insolvent be dismissed, or the adjudication be reversed, be entitled to distrain for the said rent.

23. * * * * if any such insolvent shall, at the time of filing his petition, or at the time of filing the petition on which an adjudication of insolvency shall be made, by the consent and permission of the true owner thereof, have in his possession, order, or disposition any goods or chattels whereof such insolvent is reputed owner, or whereof he has taken upon him the sale, alteration, or disposition as owner, the same shall be deemed to be the property of such insolvent, so as to become vested in the official assignee of the court by the order made in pursuance of this Act:

Property in the order and disposition of insolvent.

Provided that no assignment or transfer of any ship or vessel, or any share thereof, made as a security for any debt, either by way of mortgage or assignment, duly registered according to the provisions of any Act or Acts of Parliament now in force or hereafter to be passed for the registering of British vessels, shall be invalidated or affected by reason of such possession, order, or disposition of the same as aforesaid.

Mortgages of ships or vessels, or shares thereof duly registered, not to be invalidated or affected.

24. * * * * if any insolvent who shall file his petition for his discharge under this Act, or who shall be adjudged to have committed an act of insolvency, shall voluntarily convey, assign, transfer, charge, deliver,

Fraudulent conveyances, etc., made by insolvent

(Secs. 25-26.)

within two
months before
insolvency, to
be void.

or make over any estate, real or personal, security for money, bond, bill, note, money, property, goods, or effects whatsoever, to any creditor, or to any other person in trust for or to or for the use, benefit, and advantage of any creditor, every such conveyance, assignment, transfer, charge, delivery, and making over, if made when in insolvent circumstances, and within two months before the date of the petition of such insolvent, or of the petition on which an adjudication of insolvency may have proceeded, as the case may be, or if made with the view or intention, by the party so conveying, assigning, transferring, charging, delivering, or making over, of petitioning the said court for his discharge from custody under this Act, or of committing an act of insolvency shall be deemed and is hereby declared to be fraudulent and void as against the assignees of such insolvent.

Government
stocks, funds,
etc., standing
in name of
insolvent to
be transferred
to name of
assignee.

25. * * * * if any such insolvent as aforesaid shall, at any time before he shall have obtained his discharge in the nature of a certificate herein-after mentioned, be entitled to or possessed of, in his own right, any government stock, funds, or annuities, or any of the stocks or shares in any public company, either in England, Scotland, or Ireland, or the territories under the government of the East India Company, it shall be lawful for the said court, upon the application of any assignee, or any creditor of such insolvent whose debt or demand against such insolvent shall have been admitted or established in the matter of the said insolvency, whenever it shall deem fit so to do, to order all persons whose act or consent is thereto necessary to transfer the same into the name or names of such assignee or assignees as aforesaid;

and all such persons whose act or consent is so necessary as aforesaid are hereby indemnified for all things done or permitted pursuant to such order:

Provided always, that in all transfers into the name or names of any such assignee or assignees, the transferee or transferees shall be described as assignee or assignees of the estate and effects of the insolvent;

and no dividend shall be paid to, nor any future transfer made by, any person of any such stock, funds, annuities, or shares, except under a power of attorney, in the usual form required for the receipt of dividends upon or transfer of such stock, funds, annuities, and shares respectively, duly executed by such assignee or assignees, and attested by two credible witnesses, one of whom shall be an officer of such court for relief of insolvent debtors, and to which attestation the seal of such court shall be affixed.

Persons
holding prop-
erty of

26. * * * * in case any person shall, after any such insolvent shall have petitioned for his discharge under this Act, or have been

(Secs. 27-28.)

adjudged to have committed an act of insolvency, and before the said insolvent shall have obtained his discharge in the nature of a certificate as herein-after mentioned, be possessed of or have under his power or control any property whatsoever of such insolvent, other than any such government stock, funds or annuities as aforesaid or other than any of the stock or shares in any public company, either in England, Scotland, or Ireland, or within the limits aforesaid, or to which such insolvent may be in any way entitled, either under any trust, express or implied, or otherwise held for his use and benefit, or in case any such person shall be at any such period indebted to such insolvent,

insolvent, except stocks, etc., or indebted to him, may be ordered to transfer such property, and make payment of such debts, to the assignee.

it shall be lawful for the said court, upon the application of any assignee, or any creditor of such insolvent whose debt or demand shall have been admitted or established in the matter of the said insolvency, to cause notice to be given to such person, directing him to hold and retain the said property till the said court shall make further order concerning the same;

and thereupon it shall be lawful for the said court further to order such person to deliver over such property, and to pay such debts as aforesaid, or any part thereof, to the assignee or assignees of the estate and effects of such insolvent, for the general benefit of the creditors of such insolvent;

and such delivery and payment shall be made accordingly in obedience to such order, and such person shall by such payment and delivery, so made in pursuance of such order of the said court, be discharged in respect of such property and debts against all persons whatsoever, to all intents and purposes.

27. * * * * if any such insolvent as aforesaid shall, at any time before he shall obtain his discharge in the nature of a certificate as herein-after mentioned, hold any public office, appointment, or benefice, civil, military, or ecclesiastical, not saleable, or shall be in any situation or employment whatsoever in respect of which he shall receive any salary or emolument or shall be in the receipt of any pension, then it shall be lawful for the said court to order the said insolvent to pay such proportion of his receipts therefrom to his assignee as the said court shall think right;

If insolvent hold any offices, etc., not saleable, he may be ordered to pay a proportion of receipts to assignee.

and all saleable offices, appointments, or benefices shall vest, by virtue of the vesting order as aforesaid, in the official assignee, in trust for the creditors of such insolvent as aforesaid.

Saleable offices shall vest in assignee.

28. * * * * it shall be lawful for the assignee or assignees, with the leave of the court first obtained, upon application to such court, and by and with such notice to such creditors as it shall think fit to direct, to take such reasonable part of any debts due to the insolvent as may by composition be gotten, in full discharge of such debts, and to submit to arbitration any difference or dispute between the assignee or assignees and any other person

Power of assignee to take composition and to submit disputes to arbitration.

(Secs. 29-32.)

or persons for or on account or by reason of anything relating to the estate and effects of such insolvent.

Powers of assignee to institute and defend actions and suits.

29. * * * * it shall be lawful for the assignee or assignees, with leave of the court first obtained, to commence, prosecute, or defend any suits or actions at law or in equity which the insolvent might have commenced and prosecuted or defended, and to defray the costs to which he may be put in respect of such suits or actions out of the proceeds of the estate and effects of the insolvent ;

Provision as to partnership.

and if there be any partner of the insolvent who hath not joined in the petition, it shall be lawful for the court to authorize the assignee to join such partner with himself as plaintiff in such suit or action ;

and if such partner shall execute any release of the debt or demand for which such suit or action is brought, the release shall be void :

Provided always, that such partner, if he shall take no part in the prosecution or defence of such suit or action, shall not be liable to pay costs in respect of the same ;

and it shall be lawful for such court, upon the application of such partner, to direct that he may receive so much of the proceeds of such action or suit as the said court shall direct.

All powers vested in insolvent to be vested in assignee.

30. * * * * all powers vested in any such insolvent which he might lawfully execute for his benefit shall be and are hereby vested in the assignee or assignees of the real and personal estate of such insolvent or insolvents by virtue of this Act, to be executed by his assignee or assignees for the benefit of his creditors.

Sale of insolvent's estate.

31. * * * * the assignee or assignees shall, with all convenient speed, make sale of the property and effects of the insolvent :

Court may delay or postpone the sale.

Provided nevertheless, that the said court shall have full power and authority, upon the application of any insolvent, or any creditor or mortgagee of such insolvent, to delay or postpone the sale of any property, and to make such other order respecting the same as to such court shall seem meet.

32. And whereas insolvents may be entitled to annuities for their own lives, or other uncertain interests, or to reversionary or contingent interests, or may have made advances of money for the cultivation of lands, or may be interested in property in other ways under such circumstances that an immediate sale and payment of their debts may be very prejudicial to them and to their creditors,

and it may be proper in some cases to defer the sale of their property, or some parts thereof, and to put it under temporary management, or to authorize the raising of money by way of mortgage or otherwise for payment of

(Sec. 33.)

the debts or part of the debts of an insolvent, and for defraying the expenses attending the execution of this Act, instead of selling for such purpose :

Be it enacted, that in all such cases it shall be lawful for the said courts for the relief of insolvent debtors at any time to take into consideration all circumstances affecting any property of the insolvent which shall have been vested under the provisions of this Act ;

and if it shall appear to any court that it would be reasonable to make any special order touching the same, it shall be lawful for such court so to do, and to direct that so much of the said property as it may be expedient not to sell immediately according to the provisions of this Act shall not be so sold, and from time to time to order and direct in what manner such property shall be managed for the benefit of the creditors of such insolvent, until the same can be properly sold, or until payment of such creditors be effected according to the provisions of this Act, and to make such order touching the sale or disposition or management of such property as to such court for relief of insolvent debtors may seem reasonable and beneficial, and upon such terms and conditions with respect to the allowance of interest on debts not bearing interest, or other circumstances, as to such court shall seem just ;

and if it shall appear that the debts of any such insolvent can be discharged by means of money raised by way of mortgage or otherwise on any of the said property of the said insolvent, instead of raising the same by sale, it shall be lawful for the said court so to order, and to give all necessary directions for such purpose, and generally to direct all things which may be proper for the discharge of the debts of such insolvent in such manner as may be most consistent with the interest of such insolvent and of his creditors.

33. * * * * the assignee or assignees shall keep accounts of the property, debts, and credits of such insolvent, whether separate or joint, and of all property of the insolvent received by him or them, and all payments made by him or them, which accounts any creditor shall be at liberty to inspect at all seasonable times ;

and it shall be lawful for the courts for the relief of insolvent debtors to summon the assignee or assignees before them, and require him or them to produce all books, papers, deeds, writings, and other documents, in his or their possession, relating to the matters of such insolvency ;

and upon his or their default it shall be lawful for such courts respectively to issue an attachment or attachments against the party or parties so making default, and to cause such assignee or assignees to be brought before them, and to commit such assignee or assignees to prison until he or they shall submit to the court by which he or they shall have been summoned.

Discretionary power vested in the court to defer sales and give directions for management of property.

also for raising money by way of mortgage to pay debts, or for otherwise discharging debts.

Assignees to keep accounts of the estates of insolvents, with liberty for creditors to inspect the same.

Assignees may be ordered to produce books, etc., and committed for refusal.

(Secs. 34-35.)

Penalty on assignee improperly dealing with insolvent's estate.

34. * * * * if any assignee shall knowingly retain in his hands, for his own benefit, or employ for his own benefit, or knowingly permit any co-assignee so to retain or employ any sum, part of the estate of the insolvent, or shall knowingly omit to invest or pay or deposit any money or other property in the manner in which it may be his duty for the time being, according to law, to invest, pay, or deposit the same, every such assignee shall, besides being liable to be removed therefor from his office of assignee for misconduct, be liable to be charged in his accounts with such sum as shall be equal to interest at the rate of twelve per centum per annum on the amount or value of such money or property, or if any higher interest shall have in fact been made, then to the extent of the interest actually made, and five per centum per annum in addition thereto on all such money or property, for the time during which he shall have so retained or employed the same, or permitted the same to be so retained or employed as aforesaid, or during which he shall have so neglected to invest or deposit the same as aforesaid;

and the court is hereby required to charge every such assignee in his accounts accordingly, and the amount so charged shall constitute a debt from him to such estate;

If assignee indebted to estate become insolvent, his discharge shall not free him from liability to pay the whole debt and interest out of his future effects.

and if any assignee indebted to the estate of which he is such assignee, in respect of money so retained or employed by him as aforesaid, become insolvent, his discharge under the provisions of this Act shall only have the effect of freeing his person from arrest and imprisonment on account of such debt; but his future effects, excepting the wearing apparel, bedding, and other herein-before mentioned articles excepted out of the operation of the vesting order aforesaid, and not exceeding the value herein-before limited in that behalf, shall remain liable for so much of his debts to the estate of which he was assignee as shall not be paid by dividends under such insolvency, together with legal interest for the whole amount.

After petition and schedule filed, and adjudication, notice to be given to creditors, and published.

35. * * * * after the petition and schedule of any insolvent shall have been filed in any court for the relief of insolvent debtors and after any such adjudication of an act of insolvency shall have been pronounced as aforesaid, the court shall cause notice thereof to be given to any creditor or creditors of the insolvent at whose suit he may be detained in custody, or the attorney or agent of such creditor or creditors, and to the other creditors resident within the limits of the territories of the East India Company, as the court shall direct;

and notice to the like effect shall be twice at least published in the gazette of the presidency where such court shall be holden;

Court in such

and the court in such notice shall appoint a day and place for the hearing

(Secs. 36-38.)

of the matters of the petition of such insolvent and for hearing any other applications in the matter of the insolvency.

notice to ap-
point a day
for hearing.

36. * * * * upon the day so appointed by the court as aforesaid for such hearing as aforesaid, or on any future day to which such hearing may be adjourned, it shall be lawful for the insolvent and for any creditor of the insolvent, as the case may require, to be heard, either by himself or by counsel, in support of or in opposition to the petition of the insolvent, or on any other application relating to the insolvent or his estate;

Course of
proceeding on
hearing.

and it shall also be lawful for the court, on those or any other occasions, and from time to time as often as occasion may require, to order any insolvent who is in custody to be brought before it, and to summon any insolvent who shall not be in custody, and the wife of any insolvent, and any other person, whether a creditor or not, who may be known or suspected to have any of the estate or effects of the insolvent in his or her possession, or any person who may be suspected to be indebted to the insolvent, or any person who is believed to be capable of giving any information respecting the estate and effects of such insolvent, or respecting his acts, dealings, or conduct, or any information which will more easily enable the court to dispose of the estate and effects of the insolvent for the benefit of his creditors;

Court may
order insol-
vent and
others to
attend and be
examined.

and it shall also be lawful for the court to examine any insolvent or his wife, or any other such person, whether a creditor or not, in the same way as any other witnesses are examined in her Majesty's supreme court at that presidency in any suits at law or in equity, or according to any rules which may be made for the practice of the said courts for the relief of insolvent debtors respectively, or for giving effect to this Act, in the manner which is herein prescribed:

Provided always, that every witness summoned to attend before the court shall have his necessary expenses tendered to him, in like manner as by law is required upon service of a subpoena to a witness in an action at law.

Expenses of
witnesses.

37. Provided also * * * * that in all cases where any creditor or other person shall be prevented or hindered from attending the said court, by reason of sickness or infirmity, or the distance of his residence, or other reasonable cause, to be admitted by the court, it shall be lawful for the court to receive the affidavit or solemn affirmation of such creditor or other person, and also, if the court shall think fit, to permit interrogatories to be filed for the examination or cross-examination of any such person.

Evidence in
case of sick-
ness, etc.

38. * * * * when any petition shall have been presented under this Act by an insolvent, or any adjudication of an act of insolvency shall have been pronounced as aforesaid, it shall be lawful for any

Creditor
whose name is
not included
in the

(Secs. 39-41.)

schedule may
prove.

person to whom any such insolvent shall be indebted or liable in respect of any debt or demand which would have entitled such person to be inserted as a creditor in the schedule of such insolvent to make claim upon the estate of such insolvent, and to prove his debt or demand, whether due by such insolvent solely, or jointly with any other person or persons;

and such person shall be entitled to and receive a dividend thereon rateably with the other creditors of the said insolvent, although the name of such creditor may have been wholly omitted by the said insolvent in his or her schedule, or may have been inserted for a smaller amount than the debt or demand really due to such person;

and where any objection to the existence or amount of such debt or demand shall be made by such insolvent, or any creditor, such court shall hear the same, and may make such order thereon as may seem meet and just.

Mutual de-
mands may be
set off.

39. * * * * when there has been mutual credit given to the insolvent and any other person or persons, one debt or demand may be set against the other.

All debts, etc.,
proveable
under 6
Geo. 4,
c. 16, etc., may
be proved
under insol-
vency.

40. * * * * all such debts, dues, and claims as might be proved under a fiat of bankruptcy bearing even date with the insolvent's petition or the adjudication (as the case may be), according to the provisions of the said Act passed in the sixth year of the reign of his late Majesty King George the Fourth intituled "An Act to amend the law relating to bankrupts," or any other statute or statutes now in force or hereafter to be passed relating to bankrupts, may also be proved as is herein-before mentioned in the same manner and subject to the like deductions, conditions, and provisions as in the said statutes are or may be set forth and prescribed.

Power to
court to
appoint days
for purpose of
making divi-
dends.

41. * * * * whenever it shall appear to the court, either by the accounts of any assignee or assignees, or otherwise, to be probable that a dividend may be beneficially made amongst the creditors, it shall be lawful for the court to appoint a day for the purpose of making a dividend, and to cause notice thereof to be given in such manner as it shall direct;

and on the day appointed the assignee or assignees shall deliver in, upon oath or solemn affirmation, as the case may be, a true statement in writing of all money received by him or by them respectively, and when, and on what account, and how the same have been employed;

and the court shall examine such statement, and compare the receipts with the payments, and shall ascertain what balances, if any, have been from time to time in the hands of such assignee or assignees respectively;

and on the said day all parties interested shall be heard, and all objections to the schedule of the insolvent, and to the accounts or conduct of the assignee or assignees;

(Secs. 43-44.)

and any claims of any creditors which shall not have been previously determined shall be heard and determined either by such court immediately, or on a reference to the examiner or other officer of the court;

and it shall be lawful for the court to examine the insolvent, the assignees, and any witnesses, either on oath or affirmation, and either at that time to declare a dividend and to direct that the same shall be paid by the assignee or assignees or to postpone such declaration or direction of the same until a further hearing and to make such order as shall be just.

42. [*Rep. 38 & 39 Vict., c. 66 (S. L. R.) ; rep. also as to B. I. by IX of 1872, s. 1. and sch.*]

43. Provided always * * * * that unless it shall appear to the satisfaction of such court that all the property of the insolvent is situate and all the debtors and creditors resident within the limits of the charter of the East India Company, then, until the expiration of twelve calendar months from a notice to be published in the London Gazette, of the petition or adjudication of or against any insolvent, as herein-after is mentioned, the assignee or assignees shall reserve the full amount of one-third part of all the property of the said insolvent which shall have been got in, and shall make a dividend amongst the creditors of the said insolvent to the amount of the remaining two-third parts only, which third part so to be reserved as aforesaid shall in the meantime be invested or disposed of in such way as such court shall order, and shall not remain in the hands of such assignee or assignees;

Unless the court is satisfied that all the estate of the insolvent is in India and all debtors and creditors reside there, assignee to reserve one-third.

and at the expiration of the said term of twelve calendar months it shall be lawful for the assignee or assignees of such insolvent to apply to such court for a return of the said third part so reserved as aforesaid, in order that the same may be so distributed amongst the creditors as to place them all upon an equal footing;

and upon such third part so reserved as aforesaid being restored to such assignee or assignees, such assignee or assignees shall forthwith proceed to take an account of the debts of the said insolvent admitted and established in the said court, and of the sum or sums which shall or may have been paid by way of dividend to any of such creditors, and shall distribute the fund then in the hands of such assignee or assignees so as to place all the creditors of the said insolvent, whether Indian or British or foreign, upon a just and equal footing, and so as that every creditor whose debt or claim shall be admitted or established in the said court shall receive a rateable and proportional part of the assets of the said insolvent according to the amount of his debt, without reference to the time at which such debt shall have been claimed.

At expiration of twelve months such one-third to be divided, as to place all creditors on equal footing.

44. * * * * if any creditor whose claim shall have been admitted or established in any court for the relief of insolvent debtors shall not

If creditors do not appear to claim their

(Secs. 45-47.)

Dividends,
court may
order pay-
ment or de-
posit there f.

appear, by himself, his attorney, or agent, at the making of any dividend, nor shall make application to receive his share thereof, the assignee or assignees shall certify the same to such court at its first sitting after the making of the dividend, and it shall be lawful for the court to direct in what manner, and by whom, and upon what conditions, the money so due to such creditor shall be kept for or paid to him or to his lawfully constituted attorney or agent.

Power of
court over
assignees
committing
breach of
duty.

45. * * * * * if any assignee or assignees shall neglect to pay any dividend which shall have been ordered by any court for the relief of insolvent debtors or in any other respect shall neglect or commit any breach of his or their duty as assignee or assignees, it shall be lawful for such court having first summoned the assignee or assignees to appear before it, and answer the same, to order the payment of such dividend, with interest at such rate as the court shall award, not exceeding six pounds per centum per annum, and to order the assignee or assignees to make such compensation to any party injured by such neglect or breach of duty as to such court shall seem fit, and in default of obedience thereto to commit such assignee or assignees to the common gaol, there to remain without bail until he or they shall obey the order of such court, and to levy by distress and sale of the offender's goods as much as shall be sufficient to satisfy the order of the court.

Wages, etc.,
of servants
or clerks.

46. * * * * * if it shall appear to any of the said courts for the relief of insolvent debtors that any such insolvent as aforesaid is indebted to any servant or clerk of such insolvent in respect of wages or salary of such servant or clerk, it shall be lawful for the said court to order so much as shall be due as aforesaid, not exceeding six months' wages or salary, to be paid to such servant or clerk out of the estate of such insolvent, and such servant or clerk shall be at liberty to prove and receive dividends for any sum exceeding such last-mentioned amount.

Order of dis-
charge.

47. * * * * * upon application to the court for that purpose, it shall be lawful for the court to declare that the insolvent is entitled to his personal discharge under this Act, and to order the same accordingly, which order of discharge shall have the effect of protecting his person from arrest in respect of all demands inserted in his schedule or established in the same court:—

Powers of
adjournment.

and if such insolvent be in custody, it shall be lawful for the court to order his immediate discharge from custody accordingly, or to dismiss or give leave to amend the petition aforesaid, or to order the insolvent to amend his schedule, or to adjourn the hearing until a future day, or to make a reference to the examiner or other officer of the said court to make enquiry into any matter of account, or into the truth of the schedule or schedules, and to report thereon to the court;

(Secs. 48-49.)

and it shall also be lawful for the court to remand the insolvent to prison, if a prisoner, until a further hearing, or until a further time to be named in such order, or to commit the insolvent to custody for any debt or demand, if he shall not be in custody at the time of the hearing, and to cancel or renew any such order as is herein-before mentioned which may have been given for the purpose of affording interim protection to the insolvent from arrest, and to order and direct that the assignee shall make some reasonable allowance for maintenance of the insolvent until final order, the amount of which shall be fixed by the court and shall not exceed five company's rupees per week;

and the court by which any order of discharge shall be made upon any such hearing as is herein-before mentioned shall by such order direct that the assignee shall give such notice of such order as to the court shall seem fit and convenient. Notice of order of discharge to be given.

48. * * * * the discharge of any such insolvent as aforesaid shall and may extend to any sum or sums of money which shall be payable, by way of annuity or otherwise, at any future time or times, by virtue of any bond, covenant, or other security whatsoever, and to any sum or sums of money payable at a certain time, which time shall not have arrived at the time of the act of insolvency or petition of such insolvent; Extent and consequence of discharge.

and every person and persons who would be a creditor of such insolvent for such sum of money, if the same were presently due, shall be admissible as a creditor of such insolvent for the value of such sum of money so payable as aforesaid, which value the said court shall, upon application at any time made in that behalf, ascertain, and such creditor shall be entitled in respect of such value to the benefit of all the provisions made for creditors by this Act, without prejudice, nevertheless to the respective securities of such creditor, excepting as respects such insolvent's discharge under this Act;

and the discharge by virtue of this Act as to any debt or demand of any creditor of the insolvent shall be deemed to extend also to all costs incurred by such creditor before the insolvency in any action or suit for the recovery of the same, and to any process of contempt for enforcing the same, and to all costs which the insolvent would be liable to pay in clearing such contempt;

and all persons as to whose demands for any such costs as aforesaid the discharge of the insolvent is so to extend shall be deemed creditors of the insolvent in respect thereof, and entitled in respect thereof to the benefit of all the provisions made for creditors by this Act, subject nevertheless to ascertaining the amount of such demands by taxation or otherwise.

49. * * * * if after the filing of any insolvent's schedule in the said court for the relief of insolvent debtors, and before such insolvent shall obtain his discharge in the nature of a certificate herein-after Stay of proceedings against insolvent.

(Sec. 50.)

mentioned, any suit or action shall be pending against the insolvent, his heirs, executors, or administrators in any court within the limits aforesaid, or any execution or process shall be sued out or issued from any of the said courts or be enforced against such insolvent, his heirs, executors, or administrators for or in respect of any debt or demand admitted in the schedule of the insolvent or disputed as to amount only, the said court in which such action or suit shall be pending, or from which such execution or process as aforesaid shall issue on proof to its satisfaction that such action or suit, execution, or process is in respect of the debt or demand aforesaid, may stay the proceedings in such suit or action, so far as the same respects the said debt or demand, until further order of the said court, and may set aside or suspend such execution or process, so far as the same respects the said debt or demand, until further order of the said court, as it shall think fit;

and in such case the plaintiff shall pay all costs reasonably incurred by such insolvent, his heirs, executors, or administrators, by reason of such proceedings and such execution and process as aforesaid, subsequent to such plaintiff's having notice of his debt or demand being included in such schedule as aforesaid:

Provided always, that no prisoner whose estate shall by an order under this Act have been vested in the said official assignee shall after such order, and whilst the same is in force, be discharged out of custody, otherwise than under the provisions of this Act as to any action, suit, or process, or concerning any demand, with respect to which an order of discharge can, under the provisions of this Act, be made;

nor shall such action, suit, or process abate, be discontinued, terminated or dismissed, or the plaintiff be in any way subject to pay costs, by reason merely of his not having taken any further step in such cause, suit, or process, or his forbearing to proceed with the same, after such vesting order as aforesaid.

Punishment
of insolvent
for certain
offences.

50. * * * * * in case it shall appear to any court for the relief of insolvent debtors that any such insolvent has fraudulently, with the intent to conceal the state of his affairs, or to defeat the objects of this Act, destroyed or otherwise wilfully prevented or purposely withheld the production of any book, paper, or writing, relating to such of his affairs as are subject to investigation under this Act, or kept or caused to be kept false books, or made false entries in, or withheld entries from, or wilfully altered or falsified, any such book, paper, or writing, or that such insolvent has fraudulently, with intent of diminishing the sum to be divided among his creditors or of giving an undue preference to any of the said creditors, discharged or concealed any

(Sec. 51.)

debt due to or from the said insolvent, or made away with, charged, mortgaged, or concealed any part of his property, of what kind soever,

such court shall have power to adjudge that the insolvent shall be imprisoned for a period or periods not exceeding two years in the whole, as such court shall direct, and to declare him entitled to his discharge as aforesaid at the expiration of the term of imprisonment to which he shall be sentenced, and by warrant under the seal of the court to order him to be arrested and committed to prison, and there to be detained accordingly.

51. * * * * in case it shall appear to any such court that such insolvent shall have contracted any of his debts fraudulently, or by means of breach of trust, or by means of false pretences, or without having any reasonable or probable expectation at the time when contracted of paying the same, or shall have fraudulently or by means of false pretences obtained the forbearance of any of his debts by any of his creditors, or shall have put any of his creditors to any unnecessary expense by any vexatious or frivolous defence or delay to any suit for recovering any debt or any sum of money due from such insolvent, or shall be indebted in costs incurred in any action or suit vexatiously brought or defended, or shall be indebted for damages recovered in any action for criminal conversation with the wife, or for seducing the daughter or servant, of the plaintiff in such action, or for breach of promise of marriage made to the plaintiff in such action, or for damages recovered in any action for a malicious prosecution, or for a libel or for slander, or assault or battery or malicious arrest, or in any other action for a malicious injury done to the plaintiff therein, or in any action of tort or trespass to the person or property of the plaintiff therein, wherein it shall appear to the satisfaction of such court that the injury complained of was malicious, or if it shall appear that the insolvent's whole debts so greatly exceed his means of providing for the payment thereof during the time when the same were in the course of being contracted, reference being had to his actual and expected property, as to show gross misconduct in contracting the same,

Insolvent contracting debts fraudulently or by breach of trust or false pretences or vexatiously defending suits, or indebted for damages recovered in certain actions, or contracting debts by gross misconduct, may be discharged immediately except as to such debts and as to them after being in custody for any period not exceeding two years.

then and in every such case it shall and may be lawful for such court to adjudge that such insolvent shall be so discharged and so entitled as aforesaid forthwith, excepting as to any debts, sum or sums of money, or damages to be specially mentioned in the order, and as to such debt or debts, sum or sums of money, or damages, to adjudge that such insolvent shall be so discharged and so entitled as aforesaid as soon as he shall have been in custody at the suit of the person or persons who shall be creditor or creditors for the same respectively for such period or periods, not exceeding two years in the whole, as such court shall direct.

(Secs. 52-54.)

Where insolvent is ordered to be discharged after imprisonment at a future period, he shall be liable to be detained, arrested, and charged in custody, during such period, at the suit of creditors as to whom it is so ordered.

52. * * * * in all cases where it shall have been ordered that any such insolvent shall be discharged from imprisonment as aforesaid at some future period, such insolvent shall be subject and liable to be detained in prison and to be arrested and charged in custody, at the suit of any one or more of his creditors with respect to whom it shall have been so ordered, at any time before such period shall have arrived, in the same manner as he would have been subject and liable thereto if this Act had not passed:

Provided nevertheless, that when such period shall have arrived such insolvent shall be entitled to the benefit and protection of this Act, notwithstanding that he may have been out of actual custody during all or any part of the time mentioned in such order, by reason of such insolvent not having been arrested or detained during such time or any part thereof.

Where insolvent liable to further imprisonment the suit of creditors, court may order detaining creditor to allow him a sum for maintenance.

53. * * * * in all cases where such insolvent shall, upon such order as aforesaid, be liable to further imprisonment at the suit of his creditors, or any of them, it shall be lawful at any time for the court by which such order shall be pronounced, on the application of such insolvent, to order such creditor or creditors at whose suit he shall be so imprisoned to pay to such insolvent such sum or sums, not exceeding the rate of five Company's rupees by the week in the whole, at such times, and in such manner, and in such proportion, as such court shall direct, and that in failure of payment thereof, as directed by such court, such court shall order such insolvent to be forthwith discharged from custody at the suit of the creditor or creditors so failing to pay the same.

Creditor opposing discharge of insolvent to have his costs allowed him out of the estate in certain cases;

54. * * * * whenever any creditor or creditors opposing such insolvent's discharge shall prove to the satisfaction of any such court that such insolvent has done or committed any act for which he may be liable to remain in such custody as aforesaid, it shall be lawful for such court to order the taxed costs of such opposition to be paid to such opposing creditor or creditors out of the estate and effects of such insolvent, by his or her assignee or assignees, before any dividend made thereof;

and in all other cases of opposition to an insolvent's discharge being substantiated or effectual, it shall be lawful for such court to adjudge in like manner;

but if opposition be frivolous or vexatious, court may award costs against such creditor.

and in case it shall appear to such court that the opposition of any creditor to any such insolvent's discharge was frivolous and vexatious, it shall and may be lawful for such court to award such costs to such insolvent as shall appear to be just and reasonable, to be paid by the creditors making such opposition, which shall be paid accordingly.

(Secs. 55-56.)

55. * * * * where in the matter of any such petition heard before any such court any order shall have been made by such court for the discharge of any insolvent, such court shall also issue a warrant or warrants to the gaoler accordingly, ordering the discharge of such insolvent from custody as to any arrest or detainers under which he may then be confined, or which may be lodged against him before he shall be out of custody, the same being for debts in respect of which such order of discharge shall have been made;

Where order has been issued for discharge of insolvent, the court may also discharge him as to any arrest or detainers that may be lodged against him for debts in respect of which such order shall be made.

and every such order of discharge shall take effect as from the day on which it was pronounced;

and every such order may be made without specifying therein any such debt or debts, or sum or sums of money, or claims as aforesaid, or naming therein any such creditor or creditors as aforesaid, excepting so far as shall be necessary in any case in order to distinguish between the creditors as to whom any such insolvent may be ordered so to be discharged as aforesaid forthwith, and the creditors as to whom he may be ordered to be so discharged at some future period:

Provided nevertheless that in all cases the arrest or detainer with respect to which any such insolvent shall have been ordered to be discharged out of custody, he being then in custody thereupon, shall be specified in the warrant of such court, to be delivered to the gaoler in that behalf.

56. * * * * every such order for discharge of any insolvent as aforesaid by any such court as aforesaid, except in cases of appeals, shall be final and conclusive, and shall not be reviewed by such court, unless such court shall thereafter see good and sufficient cause to believe that such order has been made on false evidence, or has been made by reason of an improper suppression of evidence, or of any false statements in the insolvent's schedule, or has otherwise been fraudulently obtained, in which case it shall and may be lawful for such court, upon the application of such insolvent, or of any creditor of such insolvent, to order such insolvent, upon due notice to be given to such persons and in such manner as the said court shall direct, to attend or to be brought up, and the said matter to be re-heard before the said court, who shall thereupon re-hear the same, and shall and may, if just cause shall appear, annul the original order made in such case, and shall have the same powers and authorities upon such re-hearing as upon an original hearing in pursuance of this Act, and may adjudicate in such matter accordingly;

Such order for discharge, except in cases of appeals, shall be final and conclusive, unless obtained fraudulently, in which case it may be re-heard and annulled.

and thereupon, in case the former order in the said matter shall not be confirmed, such order, certificate, and warrant, so far as circumstances require,

Proceedings if order is annulled.

(Sec. 57.)

shall be made as required by this Act to be made in the case of the original order ;

and the said court shall and may, if necessary, remand the said insolvent to the same custody in which he or she was at the time of the former hearing, there to be subject to imprisonment as if the former order therein had not been made ;

and thereupon all detainers which were in force against such insolvent at the time of his or her former discharge from custody shall be deemed to be still in force against him or her, as if such former order had not been made ;

and the gaoler and keeper of the prison to which such insolvent shall be so remanded shall and is hereby required to receive such insolvent into his custody in pursuance of such remand, for doing which the order of remand in such case shall be his sufficient warrant ;

and where in any case such insolvent shall refuse or neglect to appear before such court according to such order for re-hearing as aforesaid, a copy whereof shall have been duly served on such insolvent, it shall and may be lawful for such court to order such insolvent to be apprehended and committed to custody to such prison and to issue its warrant accordingly and to cause such insolvent to be brought up for examination as often as to such court shall seem fit :

Provided always, that where upon such re-hearing it shall appear to such court that such insolvent is not entitled to the benefit of this Act until some future period according to the provisions herein contained, the said court shall and may, if it shall appear reasonable, adjudge the discharge of such insolvent at such future period, to be calculated without including the time during which such insolvent shall be out of custody since the time appointed for his or her discharge by such former order as aforesaid.

If order is issued erroneously, court may revoke, annul, suspend, or amend the same, and re-commit the prisoner.

57. Provided always * * * that if in any case an order for the discharge of any such prisoner shall have issued erroneously, and which is not pursuant to the intended order of the court in that behalf, it shall be lawful for the said court, on such error being shown to the court, to revoke such order, and to annul, suspend, or amend the same and, if necessary, to re-commit such prisoner to his former custody when by such order he shall have been discharged therefrom ;

and the gaoler or keeper of the prison to whose custody such prisoner shall be so re-committed is hereby required to receive such prisoner into his custody, according to such re-commitment, and thereupon all detainers which were in force against such prisoner at the time of such discharge as aforesaid shall be deemed to be still in force against him as if such erroneous order had not issued.

(Secs. 58-59.)

58. * * * * it shall and may be lawful to and for the assignee or assignees from time to time, although an order for the discharge of the insolvent may have been made, to apply to the court that such insolvent may be further examined as to any matter or things relating to his estate and effects by such court, and thereupon it shall be lawful for the said court to order the same;

On request of assignee, insolvent may at any time, although discharged, be further examined touching his estate.

and in case such insolvent shall neglect or refuse to appear before such court, at such time and place as shall be directed by such order, or shall refuse to be sworn, or to answer to such questions as shall be put to him relating to the discovery of his said estate and effects, then and in any of such cases it shall be lawful for such court by warrant to commit such insolvent to gaol, there to remain without bail or mainprize until such time as he shall submit himself to the order of such court in that behalf, and shall answer upon oath or otherwise as shall be required to all such lawful questions as shall be put to him in pursuance of the same for the purposes aforesaid.

Insolvent refusing to appear, etc., may be committed.

59. * * * * whenever it shall appear that the estate of any insolvent which has come to the hands of his assignee has sufficed to pay one-third of his debts admitted or established in the matter of the said insolvency, or that a majority in number and value of the creditors whose debts are admitted by the schedule, or established by proof, have consented to such application, it shall be lawful for the said court, at any time after the hearing of his petition, upon the application of the insolvent by petition which may be in the form contained in the Schedule (E) to this Act annexed, with such variations as the case may require, to make an order nisi for his discharge in the nature of a certificate, and such order shall specify the creditors whose demands are thereby sought to be discharged, and shall appoint a time for the further hearing of the said petition, and shall direct such notice to be given of such order in the meantime as it shall think fit, and in case any of the creditors against whom such discharge shall be sought shall appear to the court to be resident without the limits of the charter of the East India Company, to cause notice of such order, or of so much thereof as may appear necessary, to be inserted in the gazette of the presidency;

Where estate pays one-third of insolvent's debts, or where a majority in number and value of creditors consent, court may, on petition in form in Schedule (E), grant an order nisi for discharge of insolvent, appoint time for hearing, and direct notices to be given. Notices to creditors resident without the limits of the charter.

and the chief secretary of the government of the presidency shall thereafter, without delay, transmit copies of such gazettes containing such notice as aforesaid, by separate conveyances, to the court of directors of the East India Company, who shall, without delay, cause an extract from such gazette to be inserted in the London Gazette;

and upon the further hearing of such petition it shall be lawful for the said court to make such order absolute, or to dismiss such petition, or to

Order on further hearing of petition.

(Sec. 60.)

adjourn the further hearing thereof, or to make such order therein as shall be just;

and such discharge, unless order shall be made to the contrary, shall extend to and shall discharge the insolvent personally, and also his after acquired property, from the demands of all the creditors named in the said order nisi:

Provided always that such order shall not affect any creditor without the limits of the charter of the said East India Company, unless notice of the said order nisi shall have been directed to be given in the gazette in manner aforesaid, and a period of twelve calendar months shall have elapsed between the date of the said order nisi and the date of the said order to make the same absolute:

Provided also, that such order shall not operate as a release or discharge of any person who was a partner with such insolvent, or jointly bound or liable with him.

Court may, upon application of insolvent trader, in form in Schedule (F), provided he has filed his Schedule, make an order nisi for his discharge, appoint a time for hearing, and direct notices to be given.

60. * * * * it shall be lawful for any insolvent debtor, being such trader as herein-before is mentioned, who shall have presented a petition under this Act, or as to whom an adjudication that he has committed an act of insolvency shall have been made under this Act, provided he shall have filed his schedule, to apply to the said court by petition, which may be in the form contained in the Schedule (F) to this Act annexed, with such variations as the case may require;

and it shall be lawful for the said court upon such petition to make an order nisi for his discharge in the nature of a certificate, and to appoint a time for the further hearing of the said petition, and to direct such notices to be given of such order in the meantime as it shall think fit, and in case any of the creditors against whom such discharge shall be sought shall appear to the court to be resident without the limits of the charter of the East India Company, to cause notice of such order to be inserted in the gazette of the presidency;

Notice to creditors resident without the limits of the charter.

and the chief secretary of the government of the presidency shall thereafter, without delay, transmit copies of such gazettes containing such notice as aforesaid, by separate conveyances, to the court of directors of the said East India Company, who shall, without delay, cause an extract from such gazette containing such notice to be inserted in the London Gazette;

Order on further hearing of petition.

and upon the further hearing of the said petition it shall be lawful for the said court to make such order absolute, or to dismiss such petition, or to adjourn the further hearing thereof, or to make such order therein as shall be just;

(Secs. 61-62.)

and such discharge, unless such order shall be made to the contrary, shall extend to and shall discharge the insolvent personally, and also his after-acquired property, from all demands which would be discharged by a certificate under the bankrupt laws granted under a fiat bearing even date with the insolvent's petition or with the adjudication, as the case may be:

Provided always, that such order shall not affect any creditor without the limits aforesaid unless notice of the said order nisi shall have been directed to be given in the London Gazette in manner aforesaid, and a period of twelve months shall have elapsed between the date of the said order nisi and the date of the said order to make the same absolute:

Provided also, that such order shall not operate as a release or discharge of any person who was partner with such insolvent, or jointly bound or liable with him.

61. * * * * * if any such insolvent, his heirs, executors or administrators, shall, after such order for discharge in the nature of a certificate under this Act as aforesaid, be sued or arrested either on mesne or final process, or execution shall issue against his or their property, for any debt, claim, or demand from which the said insolvent shall have been discharged by such order, on his or their application to any court having power to stay such proceedings, or to discharge from such arrest or to set aside such execution, and upon proof to the satisfaction of such court of such order, and that the debt or claim for which such proceedings are had is the same from which the said insolvent has been discharged by such order as aforesaid, such proceedings shall be stayed, and he or they shall be discharged from such arrest, and such process of execution shall be set aside, and all further proceedings in the suit in which such arrest or such execution was shall also be stayed, and the said court shall have power to award costs to the said insolvent, or his heirs, executors, or administrators, as aforesaid, in case the said proceedings shall appear to the said court to have been taken after notice of the said order, and without any reasonable cause for impeaching the same, or to have been otherwise oppressive or vexatious.

If insolvent discharged by such order be again sued in respect of former debts, court may, on his application, order proceedings to be stayed, and award costs.

62. Provided always * * * * * that no debt due to our sovereign lady the Queen, nor any fine, penalty, or forfeiture whatsoever, nor any recognizance whereby a debt is acknowledged to the Queen, nor any debt due on account of any fine, penalty, or forfeiture, or any estreat shall be deemed or taken to be such a debt or debts as to entitle any person or persons to petition as is before mentioned, nor shall any person be entitled to receive any dividend for the same under this Act, nor shall any such fines, penalties, forfeitures, recognizances, debts, or estreaths be in any way discharged or

Nothing in this Act to affect debts, penalties, etc., due to the Crown.

(Secs. 63-64.)

affected by any thing done under this Act, otherwise than they might and would have been discharged or affected if this Act had not been passed.

Special provisions as to insolvent married women.

63. * * * * the provisions of this Act shall extend to married women, and the order vesting the estate and effects of such married woman in the official assignee shall extend to and operate upon her interest in any property, real or personal, in possession, reversion, remainder, or expectancy, subject to any rights of her husband therein, and to all property over which she shall have any beneficial power of disposition, notwithstanding her coverture, to the extent of the benefit which she might acquire therein by the exercise of such power; but the same shall not extend to her wearing apparel, bedding, and other such necessities, not exceeding in the whole the value of two hundred Company's rupees:

Provided always, that the discharge of any married woman under the provisions of this Act shall not extend to discharge her husband from any debt in respect of which his wife shall be so discharged, but such debt, as far as the same shall remain unpaid and unsatisfied, shall be chargeable upon and in force against such husband, as fully to all intents and purposes as if his wife had not obtained such discharge.

As to insolvent debtors becoming lunatics.

64. * * * * if any such prisoner for debt as aforesaid shall be or become of unsound mind, and be therefore incapable of taking the benefit of this Act in such manner as he might have done if of sound mind, the gaoler or keeper of the prison wherein such prisoner shall be shall give information thereof to the court for the relief of insolvent debtors of the presidency wherein such prison shall be situated, which court may thereupon proceed to inquire touching and respecting the state of the prisoner's mind, by examination of witnesses upon oath or solemn affirmation, or by such other means as it shall think fit;

and if such court shall conclude that the prisoner is of unsound mind, it shall be lawful for such court, at the instance of any person on behalf of such prisoner, to order notice to be twice inserted in the gazette of such presidency, and in such notice to specify and direct that application shall be made to such court for the discharge of such prisoner on a day to be specified in such notice being twenty days at least from the first time of publication of such notice: which notice together with service of the notice on the creditor or creditors at whose suit such prisoner shall be detained in custody, or his, her, or their attorney, shall be deemed sufficient to authorize such court to proceed to the discharge of such prisoner, and such court shall proceed accordingly, and discharge such prisoner:

(Secs. 65-70.)

Provided always that all and every the estate, right, title, interest in law and equity, real and personal, power, benefit, and emolument whatsoever, which would vest in the official assignee under a vesting order in the case of a petition by such insolvent if he were of sound mind, shall, by force and virtue of the order for the discharge of such prisoner, be vested in the official assignee in the manner and for the purposes hereinbefore mentioned.

65 to 67. [*Rep. 58 & 59 Vict., c. 66 (S. L. R.) ; rep. also as to B. I. by XIV of 1870, s. 1 and sch.*]

68. * * * * * affidavits and affirmations to be used before any court for the relief of insolvent debtors, or any officer of such court, may be sworn and affirmed before such court, or any commissioner or other person appointed by such court for that purpose, or any judge or commissioner for taking affidavits in any of her Majesty's courts of record within the limits of the said East India company's charter or before any * * * * * master extraordinary in Chancery in England or Ireland, or any magistrate authorized to take affidavits or affirmations in Scotland. Affidavits and affirmations may be sworn, etc., before courts, and commissioners, etc., appointed for that purpose, etc.

69. * * * * * if any person, in any proceeding, examination, affidavit, or affirmation had or taken under this Act, shall wilfully and corruptly swear or affirm falsely, or shall forge or counterfeit the seal of any of the said courts, or knowingly concur in using any such forged or counterfeit seal for the purpose of authenticating any proceedings or document, it shall be lawful for any court before which any such person shall be convicted of any such offence by due course of law to order and adjudge such person to be transported to such place and for such term as the court shall direct, or in either case to order and adjudge that such person shall be imprisoned and fined or imprisoned or fined only, for such time, and to such amount, and in such manner, as the same court shall direct. Penalty for perjury, or for forging or counterfeiting the seal of any court.

70. * * * * * if any insolvent who shall have filed a petition for relief, or against whom any such adjudication as aforesaid of an act of insolvency shall have been made, in any of the said courts for the relief of insolvent debtors in India, or any other person, shall wilfully and fraudulently embezzle or conceal or remove any part of the real and personal estate or effects of such insolvent, or any books of account, papers, or writings relating thereto, with intent to defraud his creditors, or shall destroy, alter, mutilate, or falsify any of his books, papers, writings, or securities, or make or be privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, Penalty on insolvent, etc., for embezzlement or concealment, etc., of effects, books, papers, etc.

it shall be lawful for any court before which any such person shall be convicted of any such offence by due course of law to order and adjudge that

(Secs. 71-73.)

such person shall be transported to such place and for such term of years as the said court shall direct, or to order and adjudge that such person shall be imprisoned and fined, or imprisoned or fined only, for such time and to such amount, and in such manner, as the same court shall direct.

Application of
fines imposed
for the fore-
going offences
for benefit of
creditors in-
jured by such
offences, on
application of
assignee
within one
year.

71. * * * * whenever any person or persons shall have been ordered and adjudged, under the provisions of this Act, to pay any fine for any forgery or perjury, or embezzlement or concealment, or any other such offence as lastly herein-before is mentioned, and such fine shall have been paid, it shall be lawful for any assignee or assignees in whom the estate and effects of any insolvent or insolvents shall be duly vested, according to the provisions of this Act, to apply to the court by which such fine shall have been imposed ;

and if it shall be proved to the satisfaction of the same court that the creditors for whose benefit the said assignee or assignees shall hold in trust the said estate and effects have been defrauded, or have incurred loss by means of such forgery, perjury, embezzlement, concealment or other offence, as aforesaid, the said court by which the said fine shall have been imposed may direct the same to be paid, after deducting the costs of prosecution, to the said assignee or assignees, for the use and benefit of the said creditors ;

Provided always, that if no such application shall be made by such assignee or assignees within one year after any such fine shall have been paid, it shall be lawful for the court by which such fine shall have been imposed to appropriate, apply, and to pay over such fine to such uses, purposes, and persons, and in such manner, as any other fine imposed by the same court for any other crime or misdemeanor may be lawfully appropriated, applied, and paid over.

Any person
interested in
proceedings
before the
court may, on
making a
deposit, re-
quire the
evidence, etc.,
to be taken
down by a
sworn officer
of the court.
If applicant
does not ap-
pear in one
month, ex-
pense may be
paid out of
deposit.
Power of
appeal to the
supreme court
of the presi-
dency.

72. * * * * any person who shall be interested in any proceeding of any of the said courts for the relief of insolvent debtors, upon depositing with the proper officer of the court a sum of money, of which the amount shall be fixed by the court, may require that the whole of the evidence relating to any such proceeding may be taken down in writing by a sworn officer of the court, and the same shall be done accordingly ;

and in case such person shall not within one calendar month thereafter present a petition of appeal as is herein-after directed, it shall be lawful for the court in which such evidence shall have been so taken down in writing as aforesaid to pay the reasonable costs and expenses thereof out of the money which shall have been so deposited as aforesaid, returning the surplus, if any, to the person who shall have deposited the same.

73. * * * * it shall be lawful for any person who shall think himself aggrieved by any adjudication, order, or proceeding of any such court for the relief of insolvent debtors to present, within one calendar

(Sec. 74.)

month thereafter, a petition to the supreme court of judicature of the presidency;

and it shall be lawful for such court to order that the whole of the evidence, if any, which shall have been so taken down in writing as aforesaid, and the minutes and records of the proceedings of which complaint shall have been made, shall be brought before it; Evidence and records to be brought before court.

and the said last-mentioned court shall inquire into the matter of the petition, and of such proceedings and evidence, and shall make such order thereon as to the same court shall seem meet and just, and shall thereby direct by whom and in what manner the costs of such petition, and of the proceedings which shall have been had thereon, and of the taking down of any such evidence in writing and of the proceedings of which complaint shall have been made, shall be paid; Court to make order on appeal, and as to costs of evidence, &c.

and such order shall be final and conclusive as to all parties, and shall be compulsory and binding upon the court in which such proceedings so complained of shall have been had.

74. * * * * the proper officer of the several courts for the relief of insolvent debtors shall, on the reasonable request of any such insolvent as aforesaid, or of any creditor or creditors of such insolvent, or his, her, or their attorney, produce and show to such insolvent, creditor or creditors, and his, her or their attorney, at such times as such courts respectively shall direct, every petition, schedule, order of adjudication, and all other orders and proceedings made and had relating to such insolvent; Officers of courts to produce proceedings, allow inspection, and give copies, on request of insolvent or creditors.

and the said court shall order the assignees of such insolvent, or the said officer of the court, as the case may be, to permit the said insolvent, creditor, or creditors, or their respective attorneys, to have inspection, at all reasonable times, of all books, papers, and writings relating to the matters of the said insolvency, and the estate of the said insolvent, in the possession of such assignees, or filed in court in such matter, and permit him, her, or them to inspect and examine the same;

and such officer or such assignees as aforesaid shall provide for any such insolvent, or creditor or creditors, or his, her, or their attorney requiring the same a copy or copies of such petition or other proceedings, books, papers, and writings as aforesaid, or of such part thereof as shall be required, receiving such fee or sum or rate of charge as such court shall appoint for so providing the same;

and a copy of such petition, schedule, order, and other orders and proceedings as aforesaid, purporting to be signed by the officer in whose custody Certified and sealed copies

(Secs. 75-77.)

of proceedings the same shall be, or his deputy, certifying the same to be a true copy of such to be evidence. petition, schedule, order, or other proceedings and appearing to be sealed with the seal of the said courts respectively, shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted in all courts whatever, and before commissioners of bankrupt and justices of the peace, without any proof of such seal or other proof whatsoever, as sufficient evidence of the same.

Conveyances, etc. under this Act not liable to stamp duties, nor sales directed by the court to auction duty.

75. * * * * no conveyance, assignment, letter of attorney, affidavit, certificate, or other proceeding, instrument or writings whatsoever, before or under any order of any of such courts for relief of insolvent debtors, nor any copy thereof, nor any advertisement inserted in any newspaper by direction of any such court, relating to matters within the jurisdiction of such court, shall be liable to or chargeable or charged with the payment of any stamp or other duty whatsoever;

and no sale of any real or personal estate of any such insolvent as aforesaid for the benefit of his or her creditors under this Act shall be liable to any auction duty.

Supreme courts may make rules and regulations.

76.¹ * * * * Her Majesty's supreme courts of judicature at Calcutta, Madras, and Bombay respectively shall respectively have power from time to time to make all necessary and reasonable rules, not inconsistent with the provisions of this Act, for facilitating and carrying into effect within their respective jurisdictions the relief intended to be given by this Act in cases for which sufficient provision has not been thereby made, and from time to time to alter and vary such rules;

all which rules shall from time to time be transmitted to the President of the Board of Commissioners for the Affairs of India, to be laid before her Majesty for her royal approbation, correction, or revision.

Filing of petition by insolvent, and adjudication of an act of insolvency, shall be conclusive evidence for purpose of bankruptcy laws in England of an act of bankruptcy committed by insolvent.

77. * * * * the filing of a petition by any insolvent debtor under this Act, and the adjudication of an act of insolvency under this Act, shall for the purpose of the laws concerning bankrupts in England be accounted and adjudged conclusive evidence of an act of bankruptcy committed by such insolvent at the time of filing his petition, or of filing the petition on which the adjudication shall be made, if the insolvent shall then be a person subject to the laws then in force respecting bankrupts;

and any creditor or creditors of such insolvent whose debt or debts shall be of sufficient amount to enable him or them by law to petition for a fiat in bankruptcy may, at any time within two months after notice of the insol-

¹ See the Indian Insolvency Rules Act, 1898 (X of 1898).

(Secs. 78-79.)

veny shall have been given in the London Gazette as herein-after is directed, sue out a fiat in bankruptcy in that part of the United Kingdom called England against such insolvent, under which all such proceedings may be had and taken as are authorized and directed, or shall be authorized and directed, by any statute or statutes now in force or hereafter to be passed respecting bankrupts, except as herein-after provided.

78. * * * * when any creditor or creditors resident within the limits of the charter of the East India Company shall be desirous of suing out such fiat in bankruptcy against any such insolvent trader, it shall be lawful for such person or persons to make proof of his or their debt or debts before any of the said courts for the relief of insolvent debtors, which proof shall be certified under the seal of such court ;

Creditor residing in India may prove his debt before the insolvent debtors' court.

and the production of the certificate thereof so sealed as aforesaid shall, without any proof of the genuineness of such certificate or of such seal, be sufficient evidence of a petitioning creditor's debt to warrant the issuing of a fiat, and also to authorize all further proceedings thereon.

79. Provided always * * * * that in the case of the issuing of any fiat in bankruptcy against any such insolvent trader, such fiat shall not in any manner affect, invalidate, or make void any acts or proceedings had or done before the issuing of such fiat of or by or under the authority of any court for the relief of insolvent debtors in India, either by any assignee or assignees, or any other person or persons acting either mediately or immediately under the authority of any such court, and whether without or within the limits of the charter of the said East India Company ;

Fiat not to invalidate or make void any proceedings had by insolvent debtors' court before the issuing of such fiat, or any proceedings had thereafter as to property in India.

nor shall such fiat in any manner affect, invalidate, or make void any such acts or proceedings as aforesaid had or done after the issuing of such fiat respecting any property or interest whatsoever of such insolvent, real or personal, or other matter, thing, or person whatsoever, within the said limits ;

nor shall the assignee or assignees under any such fiat in bankruptcy acquire any right or title to take possession of, demand, sue for, or recover any property or interest whatsoever, real or personal, of such insolvent, within the limits aforesaid ;

but the assignee or assignees under such insolvency shall, notwithstanding such fiat in bankruptcy, have full power and control over all the real and personal property of such insolvent within the limits aforesaid, as well as over that without the limits aforesaid of which they may have taken actual possession before the issuing of such fiat, and shall have the distribution and management of all such property, as fully and effectually as if such fiat in bankruptcy had not issued.

(Secs. 80-82.)

Creditors having proved under insolvency to be admitted as creditors under bankruptcy, and creditors under bankruptcy to be admitted as creditors under insolvency.

80. * * * * all the creditors of any such insolvent whose debts shall have been admitted or allowed by any court for the relief of insolvent debtors in India shall, without further proof, be entitled to be admitted as creditors under any such fiat in bankruptcy as aforesaid, for the purpose of receiving an equal dividend upon the estate of such bankrupt with the creditors who shall have proved their debts under such fiat;

and in like manner all creditors under such fiat whose debts shall have been duly established shall be entitled to be admitted as creditors, without further proof, in such court for the relief of insolvent debtors, for the purpose of receiving an equal dividend upon the estate of such insolvent with the creditors whose debts shall have been allowed in such court.

Insolvent in India made bankrupt in England not liable for not surrendering until forty-two days after arrival in U. K.

81. Provided always * * * * that when any such insolvent shall be declared bankrupt upon the sole ground herein-before mentioned, he shall not be required to surrender or be liable to any penalty for not surrendering himself to be examined under his commission until forty-two days after he shall have come into some part of the said United Kingdom of Great Britain and Ireland.

Publication of notices of insolvency, etc.

82. * * * * the principal officer of the respective courts for the relief of insolvent debtors shall cause notices to be inserted in the gazettes of the respective presidencies within which such courts shall be holden of every petition which shall be filed in any of the said courts by any insolvent for relief under this Act, and of every adjudication of an act of insolvency, and of every confirmation or revocation thereof, together with the dates of the same respectively, and, in the case of an adjudication, the date of the petition on which the same is grounded, forthwith after the filing of such petition, or pronouncing such adjudication or such confirmation or revocation respectively;

and the chief secretary of the government of the said presidencies respectively shall, without delay, transmit to the court of directors of the said East India Company two or more copies at least of every such gazette which shall contain any such notice as aforesaid, who shall, without delay after the receipt thereof, cause such notice to be inserted in the London Gazette;

and the production of the London Gazette containing any such notice as aforesaid shall be deemed and taken by all commissioners of bankruptcy and all courts whatsoever to be sufficient evidence of the filing of the petition of such insolvent in such court as aforesaid, and of such adjudication of insolvency, and of such confirmation or revocation thereof, and of the dates of

(Secs. 83-85.)

the same proceedings respectively, and, in the case of any adjudication, of the date of the petition on which the same is grounded.

83. Provided always * * * * that in case any fiat in bankruptcy, whether under the provisions of this Act or otherwise, shall be issued against such insolvent trader as aforesaid, upon which such insolvent shall be declared a bankrupt before such order for discharge in the nature of a certificate as herein-before mentioned, then and in such case such order shall not operate as a discharge from the debt, claim, and demand of any creditor who shall not have been resident within the limits aforesaid at any time between the filing of the insolvent's petition or the adjudication, as the case may be, and the making of such order :

If fiat in bankruptcy be issued against insolvent before he obtains his order of discharge, such order shall not operate as a discharge of the debts, etc., of any creditor not resident within the limits of the charter, except in case of joint creditors one of whom is so resident.

Provided always, that when such insolvent shall be indebted or liable to two or more persons jointly, if any one of such joint creditors shall have been resident within the limits aforesaid within the time aforesaid, such certificate shall operate against all such joint creditors as aforesaid, notwithstanding the non-residency within the limits aforesaid of some of the said joint creditors.

84. Provided always * * * * that in case any fiat in bankruptcy shall be issued against such insolvent trader as aforesaid, upon which he shall be declared a bankrupt before such order for discharge in the nature of a certificate as hereinbefore mentioned, if it shall afterwards be made to appear to any commissioner, judge or court in bankruptcy having authority to grant a bankrupt's certificate that such order has been made by the court in the East Indies as aforesaid, such commissioner, judge or court as aforesaid may, if he think fit, thereupon grant the certificate of such bankrupt which shall have the same force and effect, both without and within the limits aforesaid, as any certificate duly granted under any statute or statutes now in force or hereafter to be in force respecting bankrupts.

Power of court of bankruptcy, in case of discharge granted to insolvent made bankrupt, to grant certificate to such bankrupt.

85. * * * * whenever it shall appear by the schedule of any such insolvent as aforesaid that any of the creditors are resident out of the limits aforesaid, the principal officer of the said court for the relief of insolvent debtors shall, as soon as conveniently may be after the filing of such schedule, transmit two or more copies thereof to the chief secretary of the government of the presidency within which such court is situate, who shall transmit the same to the court of directors as soon as conveniently may be after the receipt thereof ;

Where any creditors are residing out of India copies of schedule to be transmitted to the court of directors.

and the said court of directors shall retain the same and permit any person or persons being a creditor or creditors of any such insolvent debtor, at all reasonable times, to inspect and examine such schedule, and shall, upon the

(Sec. 86.)

request and at the reasonable costs and charges of any such creditor or creditors, such costs or charges to be regulated by the said court of directors, provide for him or them a copy or copies of any such schedule.

Courts may, before making order of discharge, order judgment to be entered up in the supreme court in name of assignee against insolvent for the amount of the debts stated in insolvent's schedule, or proved.

86. Provided always * * * * that in all cases where any insolvent shall not have obtained his discharge in the nature of a certificate as aforesaid under this Act, the said court for the relief of insolvent debtors may, if in the circumstances of the case it shall think fit, before making such order for such discharge, direct a judgment to be entered up against such insolvent in the supreme court of the presidency within which such court for the relief of insolvent debtors shall be situate in the name of the assignee or assignees, or of such official assignee as the court shall think fit, for the amount of the debts or demands stated in the schedule of such insolvent as due or claimed, and of such as shall be established in the said court against the said insolvent's estate, or so much thereof as shall appear at the time of such order to be due, which said order shall be filed in the said court for the relief of insolvent debtors in India;

and the production of such order or of a copy of such order, under the seal of the said court, of which order, copy, and seal no proof shall be requisite, other than the production of such order or copy, shall be sufficient authority to the proper officer for entering up the said judgment;

Execution on such judgment may from time to time be issued against future assets of insolvent.

and then and in every such case, and notwithstanding the provisions hereinbefore contained, if at any time it shall appear to the satisfaction of the said court that such insolvent is of ability to pay such debts or demands, or any part thereof, or that he is dead, leaving assets for such purpose, and that under the circumstances the same is reasonable and proper, the said court may, if it shall think fit, order execution to be taken out upon such judgment against the property of such insolvent, whether the same may or may not be by law vested in his assignee or assignees, for such sum of money as under all the circumstances of the case the said court shall order, such sum to be distributed rateably amongst the creditors of such insolvent according to the mode hereinbefore directed in the case of a dividend, and such further proceedings may be had upon such judgment as the court may from time to time order until the said debts or demands shall be fully paid and satisfied, and no scirefacias shall be necessary to revive or to execute such judgment on account of any lapse of time or change of parties, or otherwise, but execution shall at all times issue thereon by virtue of the order of the said court for the relief of insolvent debtors from time to time;

Court may refuse vexatious

Provided always, that in case any application against any such insolvent for the purpose aforesaid shall appear to the court to be vexatious or oppres-

(Secs. 87-92.)

sive, it shall be lawful for the said court not only to refuse to make any order on such application, but also to dismiss the same with such costs against the party making the same as to the said court shall appear reasonable.

87. * * * * when the debts or demands in respect of which such judgment shall have been entered up as aforesaid shall have been discharged and satisfied, it shall be lawful for such court, upon application of the insolvent, his heirs, executors, or administrators, to direct satisfaction to be entered on such judgment;

and the production of the order of the said court for entering up such satisfaction, or of a copy thereof, under seal of the said court, of which said order or copy or seal no proof shall be requisite, other than the production of such order or copy as aforesaid, shall be a sufficient authority to the proper officer for entering up the same;

and if in any case it shall appear to the satisfaction of the said court that after the said debts and demands shall have been so discharged and satisfied as aforesaid there shall remain in the possession or subject to the control of his assignee or assignees any property of any kind or description whatsoever, which has come to such assignee or assignees, or to which he or they may claim title, by virtue of the order made in that behalf, or otherwise by virtue of his or their office of assignee or assignees, it shall be lawful for the said court on such application as aforesaid, to order that all such property so remaining as aforesaid shall be vested in the party so applying and be forthwith delivered up to the said party, and such order shall have the effect of vesting the same accordingly, and the same shall be forthwith delivered up to the said party.

88 to 90. [*Rep. 41 § 42 Vict., c. 79 (S. L. R.).*]

91. * * * * where any rules or other matters are hereinbefore directed to be transmitted for Her Majesty's approbation, correction, or revision, the same respectively shall in the meantime be of full force and shall so continue until the expiration of fourteen days after the court by whose authority such rules or other matters shall have been made shall have received from the President of the Board of Commissioners for the Affairs of India a communication of her Majesty's disallowance thereof, or of any alterations directed by her Majesty to be made therein.

92. * * * * whenever this statute hath used the words "court for relief of insolvent debtors," or any words of reference to the same, they shall include each court for the relief of insolvent debtors at Calcutta, Madras, and Bombay respectively;

applications with costs.

When judgment is discharged and satisfied, court may, on application of insolvent or his representatives, order satisfaction to be entered up on such judgment;

and balance in hands of assignee to be paid to party applying.

Rules, etc., directed to be transmitted for her Majesty's approbation, etc., shall be in force till fourteen days after notice of disallowance or alteration.

Interpretation of Act.

(Sec. 94.—Sch. (A).)

and words describing the petition of any insolvent shall include the joint petition of two or more insolvents, and all provisions as to the one shall apply to the other ;

and words importing the singular number or masculine gender only shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise provided, or there be something in the subject or context repugnant to such construction.

93. [*Rep. 38 & 39 Vict., c. 66 (S. L. R.).*]

Saving.

94. Provided always * * * * that nothing in this Act contained shall affect an Act passed by the Right Honourable the Governor General of India in council, in one thousand eight hundred and forty-one, for appropriating the unclaimed dividends of insolvent estates.¹

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A).

Form of Petition by Insolvent in Custody.

In the Court for Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the Commissioners of the said court, the humble petition of _____, late of _____,

Showeth,

THAT on the _____ day of _____ your petitioner was committed to the custody of the sheriff [by virtue of a writ of _____ issued against your petitioner at the suit of the _____ for the sum of _____], [and that detainers have since been lodged against him at the suit of _____ and _____ for sums of _____ and _____ respectively], and that he is now a prisoner in the common gaol under the process, aforesaid.

That he is desirous of obtaining the benefit of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays, that upon compliance with the provisions of the said Act he may have the benefit of the same, and that all necessary directions may be given for that purpose.

And your petitioner, etc.

(Schs. (B) and (C).)

NOTE.

The blanks are to be filled up, and the parts between brackets omitted or varied according to the facts.

The petition is to be signed by the insolvent, and witnessed by the gaoler.

A similar form is to be adopted in the case of a joint petition.

SCHEDULE (B).

Form of Petition of Insolvent not in Custody.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the Commissioners of the said Court. The humble petition of _____, of _____,

Showeth,

THAT your petitioner is in insolvent circumstances.

That he is now residing at _____, within the jurisdiction of the supreme court of _____.

That he is desirous of obtaining the benefit of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays, that upon compliance with the provisions of the said Act he may have the benefit of the same, and that all necessary directions may be given for that purpose.

And your petitioner, etc.

NOTE.

The petition to be signed by the petitioner, and witnessed by his attorney.

SCHEDULE (C).

In the Court for the Relief of Insolvent Debtors.

The schedule of _____

In the matter of _____

_____, an insolvent.

I, the said _____, do declare, that this my schedule doth contain a full and fair description of me, as to name, trade, profession, and abode, and of the debts due or growing due from me, and of all and every person to whom I am indebted, or who to my knowledge and belief claim to be my creditors, together with the nature and amount of such debts and claims respectively, distinguishing such as are admitted from such as are disputed by me; and also a full, true, and perfect account of all my estate and effects, real and personal, in possession, reversion, remainder, or expectancy, and also of all places and employments of benefit to me held by me, and also of all pensions and allowances which I have in possession or reversion, or which are held by any other person for me or on my behalf, or of or from which I derive or may derive any manner of benefit, and also of all rights and powers which I am, or any other person in trust for me or for my use or benefit are, in any manner whatever possessed of or interested in or entitled unto or which I or any other person in trust for me or for my benefit have any power to dispose of, charge, or exercise, for my benefit or advantage, together with a full, true, and

(Sch. (C).)

perfect account of all the debts due or growing due to me or any person in trust for me or for my benefit or advantage, either solely or jointly with any other person, and the names and places of abode of the several persons from whom such debts are due and growing due, and of the witnesses who can prove or other evidence to prove such debts, so far as I can set forth the same; and that this my schedule doth fully and truly describe the wearing apparel, bedding, and other such necessities and working tools and implements of myself and my family which are excepted by me from the operation of the Act relating to insolvents in India, together with the value of such excepted articles respectively.

CREDITORS.

No.	Names and description of creditors of claimants, and their present or last residence.	Amount.			When contracted.	Admitted or disputed.	Nature and consideration of the debt and securities, if any; also why disputed, if disputed.
1. &c.							

Where there are cross demands, the party must be entered both as creditor and debtor, and "set off" must be written under the amount.

DEBTORS.

No.	Names and descriptions and places of abode of debtors.	Amount.			When contracted.	Good, bad, or doubtful.	Nature and consideration of the debt also securities (if any) for the same.	Witnesses, with their residences, and other evidence by which the debt may be proved.

N. B.—If property has been taken possession of by the common assignee, it must nevertheless be fully entered in the schedule.

(Sch. (C).)

PROPERTY in possession.

		Supposed value.
1. Interest in land, houses, rents, or other real estate.	Describe the quantity of estate, if less than the absolute proprietary right, as lease for years, lease for lives, etc.; local description, names of tenants, annual rent or value; statement of incumbrances (if any) thereupon, with description of them, and dates.	
2. Goods, choses in action	Household furniture Wearing apparel (not excepted) Jewels, trinkets, and ornaments Plate, linen, china, glass Wines and other liquors Books, prints, and pictures Horses and other animals Carriages Farming stock, crops, and implements of husbandry Other crops on cultivation Stock in trade, machinery, and utensils, in my business of Ships and shares of ships, describing the ships by name, and master, or other sufficient description Cash, bills, notes, bonds, etc; any other property not particularly specified	
3. Property in public securities, Indian or otherwise, shares in companies, annuities, etc.	Describe the fund, stock, company, security, etc., and state in whose name, and also when, and by whom, the last dividend or other payment in respect of the same was received, and shares of estate.	
4. Unpaid legacies	Legacies, shares of intestates' estates, with all particulars concerning the same	

PROPERTY in reversion, places, pensions, allowances, rights, and powers.

Contingent as well as vested interests must be entered.

Real and personal estate and effects in which I have any interest in reversion, remainder, or expectancy.

		Supposed value of my interest, if now to be sold.
Interests in land, houses, rents, and other real estate.	Describe the property as in the division relating to property in possession; add a	

*(Sch. (D).)**Property in reversion, etc., etc.—continued.*

		Supposed value of my interest, if now to be sold.
2. Personal property, as goods and certain choses in action.	description of the nature of the interest, and from whom and in what manner it is derived, with names and descriptions of persons now enjoying the same, the value or annual value, according to the nature of the property, and in whose name or names the property now stands, or who has the legal interest therein, according to the nature of the property.	
3. Other personal property, as public securities, Indian or otherwise, shares in com- panies, annuities.		
Places, pensions, and allowances, in possession or reversion.	Places of employments held by me, with the salaries, fees, and emoluments there- of; also all pensions and allowances in possession or reversion held by me, or by any other person or persons for me or on my behalf, or of or from which I derive or may derive any benefit.	
Rights and powers	Rights and powers which I or any other person or persons in trust for me, or for my use, benefit, or advantage, am or are in any manner seized or possessed of or interested in or entitled unto, or which I or any other person or persons in trust for me or for my benefit have any power to dispose of, charge, or exercise, for my benefit or advantage.	
Excepted articles	Excepted articles, and the value thereof. Give a full description of the excepted articles and their value.	

*The schedule to be signed by the insolvent, and witnessed by his attorney.
A similar form must be adopted in the case of a joint schedule.*

SCHEDULE (D).*Form of Petition for Adjudication of Insolvency.***FORM NO. 1.**

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the Commissioners of the said court.

The humble petition of _____ of _____

Sheweth,

THAT on or about the _____ day of _____ the said [here state
the time and place of the charge in execution or commitment of the prisoner, and the
amount of the debt or sum of money for which the prisoner shall have been so charged
in execution or committed].

(Sch. (B).)

That your petitioner is desirous that the said prisoner should be dealt with according to the provisions of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays that the said _____ may be adjudged to have committed an act of insolvency, pursuant to the provisions of the Act for the relief of insolvent debtors in India, and that the proper order may thereupon be made And your petitioner, etc.

FORM NO. 3.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the Commissioners of the said court.

The humble petition of _____, of

Showeth,

THAT _____, late of _____, (heretofore and up

to _____ carried on the trade or business of _____ at _____), and thereby, as your petitioner is advised, became a trader within the meaning of the bankrupt laws.

That on or about the _____ day of _____ the said _____ [here state shortly the act or acts of insolvency relied on], whereby as your petitioner is advised and believes the said _____ is liable to be adjudged to have committed an act of insolvency.

That at the time aforesaid the said _____ was and now is indebted to your petitioner in the sum of _____ [state for what the party is indebted, as for goods sold and delivered, etc.].

Your petitioner therefore humbly prays that the said _____ may be adjudged to have committed an act of insolvency, pursuant to the provisions of the Act for the relief of insolvent debtors in India, and that the proper order may thereupon be made. And your petitioner, etc.

NOTE.

The blanks must be filled up, and the parts within brackets varied or supplied, as the case may require.

A similar form must be used in the case of a joint petition.

SCHEDULE (E.)

Form of Petition for Discharge in the Nature of a Certificate of an Insolvent not a Trader.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent.

To the honourable the Commissioners of the said court.

The humble petition of the said insolvent,

Showeth,

THAT on or about the _____ day of _____ [the circumstances to be stated shortly].

That the estate of your petitioner has realized one-third of the amount of the debts established in this court in the matter of the said insolvency [or, that the major part in

(Sch. (F))

number and value of the creditors of your petitioner contained in the said schedule, or who have since established their debts in this court, have consented to the discharge of your petitioner from all further liability in respect of his aforesaid debts, provided that this court shall so order], as appears by the schedule annexed to this petition, to which your petitioner craves leave to refer.

That your petitioner is desirous of obtaining a discharge in the nature of a certificate under the provisions of the said Act.

Your petitioner therefore humbly prays that he may be discharged from all liability in respect of such debts, and that all necessary directions may be given for that purpose.

And your petitioner, etc.

NOTE.

The blanks must be filled up, and the parts between brackets varied, as the case may require.

The schedule to contain a copy of the original schedule, and of the debts proved since, if any, and the consents of the creditors must be signed by them, or their attorneys specially authorized.

 SCHEDULE (F.)

Form of Petition for Discharge in the Nature of a Certificate of an Insolvent Trader.

In the Court for the Relief of Insolvent Debtors.

In the matter of _____, an insolvent trader.

To the honourable the Commissioners of the said court.

The humble petition of the said insolvent.

Showeth,

THAT your petitioner, prior to his insolvency herein-after mentioned, carried on the trade or business of _____, and thereby became a trader within the meaning of the bankrupt laws.

That on or about the _____ day of _____ your petitioner petitioned for his discharge under the Act for the relief of insolvent debtors in India (or, was adjudged by this court to have committed an act of insolvency).

That on or about the _____ day of _____ your petitioner duly filed his schedule in this court, and that your petitioner is desirous of obtaining a discharge in the nature of a certificate under the provisions of the Act relating to insolvent debtors in India; and he therefore humbly prays that all necessary directions may be given for that purpose, and that your petitioner may, by the order of this court for his discharge in the nature of a certificate, be discharged from all liability in respect of the debts or claims established, or which might by law be proved in this court, in the matter of his insolvency.

And your petitioner, etc.

NOTE.

The petitioner must annex to this petition a copy of his schedule, and include all debts established, though not included in the schedule as originally filed.

The blanks must be filled up, and the parts between brackets varied, as the case may require.

(Secs. 1-3.)

THE PORTUGUESE DESERTERS ACT, 1849.

(12 & 13 Vict., c. 25.)

An Act for giving effect to the Stipulations of a Treaty between Her Majesty and the Queen of Portugal for the Apprehension of certain Deserters.

[26th June, 1849.]

[Preamble recites Treaty of Commerce and Navigation with Portugal, dated 3rd July, 1842, Articles 16 and 19.]

1. In case any apprentice or sailor shall desert from any vessel belonging to any Portuguese subject or subjects, while such vessel shall be within any port in any of her Majesty's dominions, or the territories under the government of the East India Company, all justices of the peace and other magistrates and officers of justice within their several jurisdictions shall, on application being made by a Portuguese consul, or his deputy or representative, according to the provisions of the said treaty, aid in apprehending such apprentice or sailor;

Deserters from Portuguese vessels in ports in her Majesty's dominions or India to be apprehended on application of Portuguese consul and conveyed back to the vessel or delivered to the master, etc.

and upon any such application it shall be lawful for any justice of the peace, or other magistrate or person having power to commit for trial persons accused of crimes against the laws of that part of her Majesty's dominions or territories in which such apprentice or sailor shall be found, to issue his warrant for the apprehension of such apprentice or sailor, and upon due proof of such desertion as aforesaid, to order such apprentice or sailor to be conveyed on board the said vessel, or to be delivered to the master, mate, or owner of such vessel, or his agent, for the purpose of being so conveyed,

and it shall be lawful for such master, mate, owner, or agent, or any other person in pursuance of the order in that behalf, to convey such apprentice or sailor accordingly.

2. * * * * no person shall protect or harbour any apprentice or sailor who shall have deserted as aforesaid, knowing or having reason to believe such apprentice or sailor to have so deserted ;

Penalty for protecting deserters.

and every person so offending shall for every such apprentice or seaman so protected or harboured forfeit and pay the sum of ten pounds ; * * *

* * * *

3. * * * * if by any law or ordinance to be hereafter made by the local legislature of any British colony or possession abroad provision shall

The operation of this Act in any colony

¹ See Hertslet's Treaties, Vol. VI, p. 598.

² Words repealed by 39 & 40 Vict., c. 20, s. 2, which substitutes other provisions, have been omitted.

may be suspended while any enactment of the colonial legislature carrying out the objects of this Act, remains in force there. Continuance of this Act.

be made for carrying into complete effect within such colony or possession the objects of this present Act, by the substitution of some other enactment in lieu thereof, then it shall be competent to her Majesty, with the advice of her Privy Council, if to her Majesty in council it shall seem meet, but not otherwise, to suspend the operation within any such colony or possession of this present Act so long as such substituted enactment shall continue in force there, and no longer.

4. * * * * * this Act shall continue in force during the continuance of the said treaty.

THE ADMIRALTY OFFENCES (COLONIAL) ACT, 1849.¹

(12 & 13 Vict., c. 96.)

An Act to provide for the Prosecution and Trial in Her Majesty's Colonies of Offences committed within the Jurisdiction of the Admiralty.

[1st August, 1849.]

[Preamble.]

Trial of Admiralty offences in colonies.

1. If any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea or in any such haven, river, creek, or place shall be brought for trial to any colony,

then and in every such case all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers, and other persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence, wherewith he may be charged as aforesaid as by the law of such colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the courts of criminal justice of such colony.

¹ See *Chitty's Statutes*, Tit. Colonies, p. 1.

13 & 14 Vict., c. 26.] *The Piracy Act, 1850.*

2. [Rep. 54 & 55 Vict., c. 67 (S. L. R.).]

3. * * * * where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished, in such colony, in the same manner and in all respects as if such offence had been wholly committed in that colony;

Provision etc., where death in the colony, or at sea, etc., follows from injuries inflicted on the sea, etc.

and if any person in any colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea.

4. [Omitted as being inapplicable to India.]

5. * * * * for the purposes of this Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom, and the islands of Man, Guernsey, Jersey, Alderney, and Sark and the lands adjacent thereto respectively, * * * *¹.

Interpretation of "colony."

6. [Rep. 41 & 42 Vict., c. 79 (S. L. R.).]

THE PIRACY ACT, 1850.

(13 & 14 Vict., c. 26.)

An Act to repeal an Act of the Sixth Year of King George the Fourth, for encouraging the Capture or Destruction of Piratical Ships and Vessels; and to make other Provisions in lieu thereof.

[25th June, 1850.]

[Preamble.]

1. [Rep. as to U. K. 38 & 39 Vict., c. 66 (S. L. R.). Omitted as being spent.]

¹ And includes British India,—see 23 & 24 Vict., c. 88, s. 1.

(Secs. 2-5.)

Jurisdiction
given to
admiralty
courts to in-
quire into
cases of al-
leged piracy.

2. * * * * whenever any of her Majesty's ships or vessels of war, or hired armed vessels, * * * * or their boats, or any of the officers and crews thereof, shall * * * * attack or be engaged with any persons alleged to be pirates afloat or ashore, it shall be lawful for the High Court of Admiralty of England, and for all courts of vice admiralty in any dominions of her Majesty beyond the seas, * * * * to take cognizance of and to determine whether the persons or any of them so attacked or engaged were pirates, and to adjudge what was the total number of pirates so engaged or attacked, specifying the number of pirates captured, and what were the vessels and boats engaged.

List or return
of all cases
decided in vice
admiralty
courts to be
sent to the
Admiralty.

3. * * * * with a view to the assignment of fitting rewards for services performed by her Majesty's forces against pirates the registrars of the several vice admiralty courts shall, on the first day of January and first day of July in every year, transmit to the said Lords Commissioners of the Admiralty a list or return of all cases which shall have been adjudged in the said courts respectively under this Act during the six months preceding, together with the dates of the seizure, according to the schedule marked (A) to this Act annexed;

and the judges or registrars of the said courts respectively shall, upon the first convenient opportunity after every such decision, transmit the whole of the original evidence, with a statement of the proceedings, to the said Lords Commissioners of the Admiralty, for the purpose of the same being deposited in the High Court of Admiralty of England for reference when necessary;

and all agents of officers and men receiving any rewards herein-before referred to shall be subject to the same laws, rules, and regulations to which agents receiving bounty for the abolition of the slave trade are or may be subject.

4. [*Rep. 38 & 39 Vict., c. 66 (S. L. R.). Omitted as being inapplicable to India.*]

Condemnation
of ships, etc.,
taken from
pirates.

5. All ships, vessels, boats, goods, merchandize, specie, or other property taken possession of from pirates by any of her Majesty's ships or vessels of war, or hired armed vessels * * * * or their boats, or any of the officers and crews thereof, shall and may be proceeded against in any of the admiralty courts before mentioned, and be subject and liable to condemnation as droits and perquisites of her Majesty in her Office of Admiralty:

Provided always, that if any part of the said property shall be duly proved to have belonged to and to have been taken from any of her Majesty's subjects, or from the subjects of any foreign power, then such property and every part thereof shall, by the decree of the said court, be adjusted to be

(Sec. 6. Sch. (A)).

restored, and shall be accordingly restored to the former owner or owners, proprietor or proprietors thereof respectively, he or they paying for or in lieu of salvage a sum of money equal to one eighth part of the true value, which money * * * * shall be paid to and divided and distributed amongst the officers and crews thereof, in such manner, form, and proportion as other bounties are now distributable by virtue of her Majesty's proclamation or order in council dated the thirtieth day of July one thousand eight hundred and forty-nine, or as her Majesty, her heirs and successors, shall from time to time by any further proclamation or order or orders in council think fit to declare and direct; * * * *

6. * * * * every person who shall wilfully and ^{Perjury.} corruptly give false evidence in any examination or deposition had or affidavit taken in any proceeding under this Act shall be deemed guilty of perjury, and being thereof convicted shall be subject and liable to all the punishments, pains, and penalties to which persons convicted of wilful and corrupt perjury are liable;

and every such person may be tried for any such perjury either in the ^{Trial of such persons.} place where the offence was committed or in any colony or settlement of her Majesty near thereto in which there is a court of competent jurisdiction to try any such offence, or in her Majesty's Court of Queen's Bench in England;

and in case of any prosecution for such offence in her Majesty's said Court of Queen's Bench the venue may be laid in the county of Middlesex.

7. [Rep. 38 & 39 Vict., c. 66 (S. L. R.). Omitted as being spent.]

SCHEDULE (A) referred to by this Act.

Date of attack or destruction.	Property seized, if any.	Names of attacking ships.	Date of sentence.	Decretal part of sentence.	Whether any property has been condemned, and sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.

¹ See footnote to 4 & 5 Will 3, c. 24, s. 31, ante, p. 186.

(Secs. 1-3.)

THE LUNATICS' REMOVAL (INDIA) ACT, 1851.¹

(14 & 15 Vict., c. 81.)

An Act to authorize the removal from India of Insane Persons charged with Offences, and to give better Effect to Inquisitions of Lunacy taken in India.

[7th August, 1851.]

[Preamble.]

Power to remove from India to the United Kingdom persons acquitted of crimes or not tried on the ground of insanity

1. * * * * if any person shall have been or shall hereafter be indicted for or charged with any crime or offence in any court in India, and shall have been or shall hereafter be acquitted of or not be tried for such crime or offence on the ground of his being found to be of unsound mind, and shall by reason of the premises be lawfully in custody in India, it shall be lawful for the person or persons administering the government of the presidency in which such person shall be so in custody to order such person to be removed from India to any part of the United Kingdom, there to abide the order on her Majesty concerning his or her safe custody, and to give such directions for enabling such order to be carried into effect as may be deemed fit and proper.

Order of government of any presidency to be a sufficient warrant for removal.

2. * * * * the orders and directions of the said government of any of the said presidencies for the removal of any person under the provisions of this Act shall be a sufficient warrant and authority to all commanders of vessels and others, to whom the care and custody of any such person shall be committed, for the removal of such person from India to the United Kingdom in conformity with such directions, and for his detention in custody there until an order shall be made by her Majesty as herein-after is mentioned ;

Order for custody on arrival in United Kingdom.

and upon the arrival of any such person in the United Kingdom it shall be lawful for her Majesty to give such order for the safe custody of such person during her pleasure in such place and in such manner as to her Majesty shall seem fit, in like manner as if such person had been indicted for an offence and found insane, and were thereby subject to the provisions of the Act passed in the thirty-ninth and fortieth year of his late Majesty King George the Third intituled "An Act for the safe custody of insane persons charged with offences."

Expences of removal

3. * * * * all expences attending the removal from India and the safe custody and maintenance in Great Britain or Ireland of all such persons as aforesaid shall be borne and defrayed by the East India Company, who are

¹ See *Chitty's Statutes*, Tit. Lunatics, p. 2.

(Secs. 4-5.)

hereby authorized to charge the amount of such expences upon the revenues of the government of India.

4. * * * * the amount of all expences incurred by the East India Company in respect of the removal and custody of any such person as aforesaid shall be a debt from such person to the East India Company ;

Expences to be a debt due from the lunatic to the East India Company.

and for securing the payment thereof the East India Company shall be entitled to enter up against such person as of the date of the order for removal from India any judgment in England or Ireland in an amount sufficient to secure the payment of all expences incurred and to be incurred in respect of the matters aforesaid, and the costs of ascertaining the same as after mentioned ;

and on production at the office in Edinburgh for the registration of writs in the books of council and session of a copy of any order of the court of directors directing such judgment to be entered up, certified by the secretary of the said company, such order shall be registered in the said books in like manner as a bond executed according to the law of Scotland with a clause of registration, and decree shall be interponed thereon, which shall have the like effect as if such person had executed such bond, but without prejudice to the provisions herein contained for ascertaining the sum actually due ;

and upon application to be from time to time made to the Lord Chancellor of Great Britain in England or Chancellor in Ireland, being intrusted with the care of persons of unsound mind, or the Court of Session in Scotland, the amount of such expences reasonably and properly incurred shall be ascertained by a reference to one of the masters of the Court of Chancery, or by a remit to the accountant of the Court of Session, or otherwise, in such manner as the person or persons to whom such application shall be made shall direct ;

and the East India Company shall be entitled from time to time to recover payment of the amount so ascertained, and the costs of ascertaining the same, by proceeding on the judgment in England or Ireland, and registered order and decree in Scotland, and enforcing the same against the property but not against the person of the debtor, in the same manner as if such judgment had at the date of the said order of removal been recovered against the debtor when of sound mind, and had been entered up at the date of such order, or as if such bond had been granted by the debtor when of sound mind at the date of such order, and had been duly registered in the books of council and session, and a decree of the Court of Session interponed thereto.

5. * * * * in all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind shall have been or shall be appointed by the Supreme Court of Judicature at any

Lunatics and idiots may be removed from India to the

(Sec. 6.)

United King-
dom by orders
of the supreme
courts.

of the presidencies of India, it shall be lawful for such supreme court to declare that such person ought to be removed from India to any part of the United Kingdom, and thereupon to make such further or other order or orders authorizing or directing his removal, and touching his safe custody and maintenance, as to such supreme court shall seem fit and proper :

Provided always, that in every such case a transcript of the proceedings in the matter of the idiocy or lunacy of such person shall, under the provisions herein-after contained, be transmitted to that part of the United Kingdom to which such person shall be removed.

Transcript of
proceedings to
be transmitted
to the United
Kingdom and
entered of re-
cord, and to be
acted upon as
if the proceed-
ings have been
taken in the
United King-
dom.

6. * * * * in all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind, shall have been or shall be appointed by any of the supreme courts in India as aforesaid it shall be lawful for the proper officer of the said supreme court by the order of such court to transmit a transcript, under the hand and seal of the chief justice or senior judge of such supreme court, of the proceedings by which the idiocy, lunacy, or unsoundness of mind shall have been found, and by which such guardian, keeper, or curator shall have been appointed, to the Chancery in England and the Court of Session in Scotland and the Chancery of Ireland respectively, as the case may require ;

and such transcript, when so received, shall be entered as of record in the court or courts to which the same shall be transmitted ;

and in the case of any supersedeas of any such proceedings, the same shall be certified and transmitted and recorded in like manner ;

and the record of any such proceedings or of any such supersedeas as aforesaid shall, in case and so long and so far as the Lord Chancellor of Great Britain or other persons intrusted as aforesaid, or the Court of Session in Scotland, or the Chancellor of Ireland intrusted as aforesaid, (as the case may require,) shall respectively see fit, be acted upon by him and them respectively, and be of the same force and validity, and have the same force and effect, as if such proceedings or supersedeas, or proceedings or a supersedeas to the like effect, had taken place in England, Scotland, or Ireland respectively ;

and it shall be lawful for the Lord Chancellor or other persons intrusted as aforesaid, the Court of Session in Scotland, and the Chancellor of Ireland intrusted as aforesaid respectively, from time to time to make and give all such orders or directions by appointing any committee or committees, curator or curators, or otherwise, as may appear necessary or proper for securing proper care and protection to the person and estate of such idiot, lunatic, or person of unsound mind.

14 & 15 Vict., c. 81.] *The Lunatics' Removal (India) Act, 1851.* (Sec. 7.) 288

15 & 16 Vict., c. 12.] *The International Copyright Act, 1852.* (Secs. 6-7.)

7. * * * * the powers and authorities given by this Act to the Lord Chancellor of Great Britain or other persons intrusted as aforesaid hall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain, or any other person or persons for the time being intrusted as aforesaid ;

Powers of
Lord
Chancellor.

and the powers and authorities given by this Act to the Lord Chancellor of Ireland intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland, or any other person or persons for the time being intrusted aforesaid as aforesaid.

THE INTERNATIONAL COPYRIGHT ACT, 1852.¹

(15 & 16 Vict., c. 12.)

An Act * * * * to extend and explain the International Copyright Acts ; and to explain the Acts relating to Copyright in Engravings.

[28th May, 1852.]

[Preamble recites 7 & 8 Vict., c. 12, herein-after called "*the International Copyright Act.*"]

1 to 5. [Rep. 49 & 50 Vict., c. 33, s. 12.]

6. Nothing herein contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country.²

Saving as to
imitations of
dramatic
pieces, etc.

7. Notwithstanding anything in the said International Copyright Act or in this Act contained, any article of political discussion which has been published in any newspaper or periodical in a foreign country, may, if the source from which the same is taken be acknowledged, be republished or translated in any newspaper or periodical in this country ;

Articles in
foreign news-
papers, etc.,
relating to
politics may
be republished
or translated
if the source
be acknow-
ledged ;
and also
articles on
other subjects,
unless the
author has
signified his
intention of
preserving the
copyright.

and any article relating to any other subject which has been so published as aforesaid may, if the source from which the same is taken be acknowledged, be republished or translated in like manner, unless the author has signified his intention of preserving the copyright therein, and the right of translating the same, in some conspicuous part of the newspaper or periodical in which the same was first published, in which case the same shall * * * receive the same protection as is by virtue of the International Copyright Act or this Act extended to books.

¹ See *Chitty's Statutes*, Tit. Copyright, p. 38 ; also *Scrutton's Law of Copyright*, Ed. 2, p. 225.

² An Order in Council may direct that this section shall not apply to dramatic pieces to which protection is given by the order extended, 38 & 39 Vict., c. 12, s. 1.

(Secs. 8-14.)

8. [*Rep. 49 & 50 Vict., c. 33, s. 12.*]

Pirated copies prohibited to be imported, except with consent of proprietor.

9. All copies of any works of literature or art wherein there is any subsisting copyright by virtue of the International Copyright Act and this Act, or of any order in council made in pursuance of such Acts or either of them, and which are printed, reprinted, or made in any foreign country except that in which such work shall be first published, and all unauthorized translations of any book or dramatic piece, the publication or public representation in the British dominions of translations whereof, not authorized as in this Act mentioned, shall for the time being be prevented under any order in council made in pursuance of this Act, are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright of such work or of such book or piece, or his agent authorized in writing;

Provisions of 5 & 6 Vict., c. 45, as to forfeiture, etc., of pirated works, etc., to extend to works prohibited to be imported under this Act.

and the provision of the Act of the sixth year of her Majesty "to amend the law of copyright," for the forfeiture, seizure and destruction of any printed book first published in the United Kingdom wherein there shall be copyright and reprinted in any country out of the British dominions, and imported into any part of the British dominions by any person not being the proprietor of the copyright, or a person authorized by such proprietor, shall extend and be applicable to all copies of any works of literature and art, and to all translations the importation whereof into any part of the British dominions is prohibited under this Act.

Foregoing provisions to be incorporated with 7 & 8 Vict., c. 12.

10. The provisions herein-before contained shall be incorporated with the International Copyright Act, and shall be read and construed therewith as one Act.

11. [*Rep. 49 & 50 Vict., c. 33, s. 12.*]12 and 13. [*Rep. 38 & 39 Vict., c. 66 (S. L. R.).*]

Lithographs, etc.

8 Geo. 2, c. 13, 7 Geo. 3, c. 88, 17 Geo. 3, c. 57, 6 & 7 Will. 4, c. 59.

14. And whereas by the four several Acts of Parliament following, (that is to say,) the Engraving Copyright Act, 1734, the Engraving Copyright Act, 1766, the Prints Copyright Act, 1777, and the Prints and Engraving Copyright (Ireland) Act, 1836, provision is made for securing to every person who invents, or designs, engraves, etches, or works in mezzotinto or chiaro-oscuro, or, from his own work, design, or invention, causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro, any historical print or prints, or any print or prints of any portrait, conversation, andscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and to every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked, any print taken from any picture, drawing, model, or sculpture, notwithstanding such print

has not been graven or drawn from his own original design, certain copy-rights therein defined:

and whereas doubts are entertained whether the provisions of the said Acts extend to lithographs and certain other impressions; and it is expedient to remove such doubts:

It is hereby declared, that the provisions of the said Acts are intended to include prints taken by lithography, or any other mechanical process by which prints or impressions of drawings or designs are capable of being multiplied indefinitely; and the said Acts shall be construed accordingly.

Provisions of recited Acts shall include lithographs, etc.

THE COLONIAL BISHOPS ACT, 1852.

(15 & 16 Vict., c. 52.)¹

An Act to enable Colonial and other Bishops to perform certain episcopal functions under Commission from Bishops of England and Ireland.

[30th June, 1852.]

[Preamble recites 53 Geo. 3, c. 155; 3 & 4 Will. 4, c. 35.]

1. Notwithstanding anything in the said Acts or in any letters patent as aforesaid contained, it shall be lawful for any bishop who by virtue of such royal letters patent under the Great Seal of the said United Kingdom shall exercise or have exercised in the British territories aforesaid the office of bishop of Calcutta, or Madras, or Bombay respectively, upon the request and by the commission in writing under the hand and seal of the bishop of any diocese in England or Ireland, and with the consent and licence in writing of the archbishop of the province within which such diocese shall be situated, to ordain any persons, provided such persons shall be presented to him under the direction and authority of the bishop of such diocese, and to perform all other functions peculiar and appropriate to the order of bishops within the limits of such diocese.

East Indian bishops, under commission from bishops in England and Ireland, may ordain, etc., in the dioceses of such last-mentioned bishops.

2. And whereas by an Act passed in the fifty-ninth year of the reign of King George the Third, intituled "An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the time being to admit persons into holy orders specially for the colonies," it was enacted, that from and after the passing of this Act no person who shall have been admitted into holy orders by the bishops of Quebec, Nova Scotia, or Calcutta, or by any other bishop or archbishop than those of England and Ireland, shall be capable of officiating in any church or chapel of England

¹ Extended by 16 & 17 Vict., c. 49.

(Secs. 1-2.)

"or Ireland, without special permission from the archbishop of the province
 "in which he proposes to officiate, or of having, holding, or enjoying or of
 "being admitted to any parsonage or other ecclesiastical preferment in
 "England or Ireland, or of acting as curate therein, without the consent and
 "approbation of the archbishop of the province and also of the bishop of the
 "diocese in which any such parsonage or ecclesiastical preferment or curacy
 "may be situated";

and it was provided, "that no person who after the passing of this Act
 "shall have been ordained a deacon or priest by a colonial bishop, who at the
 "time of such ordination did not actually possess an episcopal jurisdiction over
 "some diocese, district, or place, or was not actually residing within such
 "diocese, district, or place, shall be capable, in any way or on any pretence
 "whatever, or at any time holding any parsonage or other ecclesiastical pre-
 "ferment within his Majesty's dominions, or of being a stipendiary curate or
 "chaplain, or of officiating at any place or in any manner as a minister of the
 "Established Church of England and Ireland":

and whereas by an Act passed in the third and fourth years of the reign
 of the Queen's most excellent Majesty, intituled "An Act to make certain
 "provisions and regulations in respect to the exercise, within England and
 "Ireland, by the bishops and clergy of the Protestant Episcopal Church in
 "Scotland, and also to extend such provisions and regulations to the bishops
 "and clergy of the Protestant Episcopal Church in the United States of
 "America, and also to make further regulations in respect to bishops and
 "clergy other than those of the United Church of England and Ireland," it
 was enacted, "that no person who has been or shall be ordained a deacon by
 "any Protestant bishop, other than an archbishop or bishop of the United
 "Church of England and Ireland, and who shall after the passing of this Act
 "be ordained a priest by any archbishop or bishop of the United Church of
 "England and Ireland, shall be thereby enabled, save as in this Act is pro-
 "vided, to exercise his office within England or Ireland":

Admissions,
 institutions,
 etc., of persons
 ordained in an
 English or
 Irish diocese
 under commis-
 sion from the
 bishop thereof
 by an East
 Indian or
 colonial
 bishop, to be
 valid, not-

Be it enacted, and it is hereby enacted, that nothing in the said recited
 Acts contained shall extend or be held to extend to any person who, in pur-
 suance of such request and commission as aforesaid from the bishop of any
 diocese in England or Ireland, shall have been or may hereafter be ordained a
 deacon or priest within the limits of such diocese by any bishop who by virtue
 of her Majesty's royal letters patent under the Great Seal of the United
 Kingdom of Great Britain and Ireland, shall exercise or have exercised the
 office of bishop within the British territories in India, or in any of her
 Majesty's colonies or foreign possessions; and that all admissions, institutions

and inductions to benefices in the United Church of England and Ireland, and all appointments to act as curates and chaplains therein, of persons so admitted into holy orders by any such bishop, shall, notwithstanding anything in the said recited Acts contained, be to all intents and purposes good and valid in law. withstanding
recited Acts.

3. Provided always, that all and every of such bishops, who, in accordance with the provisions of this Act, shall officiate in behalf of the bishop of any diocese in England or Ireland, in conferring holy orders, shall be subject to the several provisions and limitations established by the laws of this realm, or canons ecclesiastical, as to the titles of the persons to be ordained, and as to the oaths and subscriptions to be by such persons taken and made. Bishops so
officiating
shall be sub-
ject to the
laws of the
realm, etc., as
to the titles,
etc., of
persons
ordained by
them.

4. Provided also, that all letters of orders of persons ordained by any such bishop, in accordance with the provisions of this Act, shall be issued in the name and be subscribed with the signature of such bishop, as commissary of the bishop of the diocese at whose request and by whose commission he shall officiate in conferring such orders, and shall be sealed with the seal of the bishop of such diocese; Letters of
orders of per-
sons so or-
dained shall
be signed by
the officiating
bishop as com-
missary.

and all such acts of ordination by any such bishop shall be recorded and registered in like manner as if they had been performed by the bishop of such diocese.

5. Provided always, that nothing in this Act contained shall be construed to authorize any such bishop to use or exercise any jurisdiction whatsoever within the United Kingdom of Great Britain and Ireland. Act not to
confer juris-
diction in
United King-
dom on such
East Indian,
etc., bishops.

THE COINAGE (COLONIAL OFFENCES) ACT, 1853.

(16 & 17 Vict., c. 48.)

An Act for the Punishment of Offences in the Colonies in relation to the Coin.

[4th August, 1853.]

[Preamble recites 2 & 3 Will. 4, c. 34, amended by 7 Will. 4 & 1 Vict., c. 90, s. 5.]

1. The provisions of the said first-mentioned Act, as amended as aforesaid, shall, except as herein-after otherwise provided, extend to and be in force in all her Majesty's colonies and possessions abroad. Extension of
recited Acts
to the
colonies.

2. If any person shall import into any of her Majesty's colonies or Punishment
for importing

counterfeit
coin into the
colonies.

possessions abroad any false or counterfeit coin resembling or apparently intended to resemble or pass for any of her Majesty's current gold or silver coin coined in any of her Majesty's mints (whether in the United Kingdom or elsewhere), knowing the same to be false or counterfeit, he shall be liable * * * * to be transported for life * * * *

This Act not
to apply in
any colony to
any offence for
the punish-
ment whereof
local provision
is already
made.

3. Provided always, that where by the law now in force in any such colony or possession provision is made for the punishment of offences relating to the coin, or relating to specified descriptions of the coin, the said Act and this Act respectively, so far as respects any offence punishable under the provisions of the law now in force as aforesaid, shall not extend to such colony or possession; but such offence shall be punished in such colony or possession as if this Act had not been passed.¹

Local legisla-
tures may
vary the pro-
visions of this
Act, etc.

4. Provided also, that it shall be lawful for the local legislature of any such colony or possession, by any Act, law, or ordinance to be passed or made in the manner and subject to the conditions in and subject to which Acts, laws, or ordinances may be passed or made by such local legislature, to alter or repeal, as regards such colony or possession, all or any of the provisions by this Act extended or made applicable to the said colonies or possessions, and generally by such Acts, laws, or ordinances to make such provision as they see fit in relation to the matters to which the said first-mentioned Act and this Act extend, in like manner as if this Act had not been passed.

THE COLONIAL BISHOPS ACT, 1853.

(16 & 17 Vict., c. 49.)

An Act to extend the Provisions of an Act of the Fifteenth and Sixteenth Years of Her present Majesty, intituled "An Act to enable Colonial and other Bishops to perform certain Episcopal Functions, under Commission from Bishops of England and Ireland."

[4th August, 1853.]

[Preamble recites 15 & 16 Vict., c. 52, s. 2.]

Persons or-
dained by an
East Indian,
etc., bishop in
another colo-
nial diocese
shall have like
rights as if

1. All persons who have been or hereafter shall be ordained deacon or priest by any of the said bishops in or for the diocese of the bishop of any other of her Majesty's foreign or colonial possessions, upon his request in writing, shall be entitled to all the same rights, privileges, and

¹ This Statute, therefore, does not extend to British India, where provision on the subject is made by the Indian Penal Code (Act XLV of 1860).

(Secs. 1-15.)

advantages, as if he had been ordained by such bishop within the limits of a diocese over which he was at the time himself actually exercising jurisdiction and residing therein. ordained in the diocese of such bishop.

THE EAST INDIA COMPANY ACT, 1853.¹

(16 & 17 Vict., c. 95.)

An Act to provide for the Government of India.

[20th August, 1853.]

[Preamble recites 3 & 4 Will. 4, c. 85, which contained the territories therein mentioned under the Government of the East India Company for a term ending on the 30th April, 1854.]

1. Until Parliament shall otherwise provide, all the territories now in the possession and under the government of the East India Company shall continue under such government in trust for her Majesty, her heirs and successors, with and under the powers and restrictions, and subject to the superintendence, direction, and control now by law applicable to such government, and subject also to the provisions of this Act;

and all the provisions, now in force of the Government of India Act, 1833, and all other enactments whatsoever now in force with relation to the said company and government and territories respectively, shall, save so far as the same are altered by or are repugnant to this Act, continue in force after the said thirtieth day of April one thousand eight hundred and fifty-four, as if the said term had not expired;

and no appointments, arrangements, or acts made or done under the provisions and enactments hereby continued, shall, by reason only of the expiration of the said term, cease or be affected.

2 to 14. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

15. The provisions of the Government of India Act, 1833, relating to the division of the presidency of Fort William in Bengal into two presidencies, and to the measures consequent thereupon, which have been suspended under the authority of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter fifty-two, shall remain suspended until the court of directors, under the direction and control of the Board of Commissioners for the Affairs of India, shall otherwise direct;

and during the continuance of such suspension the provisions of such last-mentioned Act, authorizing the appointment of a lieutenant governor for the North-Western Provinces, then under the government of the presidency of

¹ The provisions of this statute cannot be affected by legislation in India—see 24 & 25 Vict. c. 67, s. 22. For digest and notes, see *Libert's Government of India*, pp. 306—308.

Fort William in Bengal, and the appointments and arrangements made thereunder, shall remain in full force.

A separate governor may be appointed for the presidency of Bengal, etc.

16. It shall be lawful for the said court of directors, under such direction and control as aforesaid, if and when they think fit at any time after the passing of this Act, to declare that the Governor General of India shall not be governor of the presidency of Fort William in Bengal, but that a separate governor shall be appointed for such presidency;

and in such case a separate governor shall be from time to time appointed for such presidency accordingly, in manner provided by the Government of India Act, 1833, in the case of vacancies happening in the offices of the governors of the presidencies of Fort Saint George and Bombay * * *

and in the meantime a lieutenant governor may be appointed for part of Bengal.

and unless and until a separate governor of such presidency shall be constituted as aforesaid, it shall be lawful for the court of directors under such direction and control as aforesaid, if and when they think fit, at any time after the passing of this Act, to authorize and direct the Governor General of India in council to appoint from time to time any servant of the said Company who shall have been ten years in their service in India to the office of lieutenant governor of such part of the territories under the presidency of Fort William in Bengal as for the time being may not be under the lieutenant governor of the said North-Western Provinces, * * *

Directors may create one new presidency or authorize Governor General to appoint a lieutenant governor.

17. * * * It shall be lawful for the court of directors of the said Company, under such direction and control, if and when they think fit, to constitute one new presidency within the territories subject for the time being to the government of the said Company, and to declare and appoint what part of such territories shall be subject to the government of such new presidency;

and unless and until such new presidency be constituted as aforesaid, it shall be lawful for the said court of directors under such direction and control as aforesaid, if and when they think fit, to authorize (in addition to such appointments as are herein-before authorized, to be continued and made for the territories now and heretofore under the said presidency of Fort William) the appointment by the said Governor General in Council of a lieutenant governor for any part of the territories for the time being subject to the government of the said Company, and to declare for what part of the said territories such lieutenant governor shall be appointed and the extent of his authority, and from time to time to revoke or alter any such declaration.

18. [*Rep. 28 & 29 Vict., c. 17, s. 3.*]

Enactments as to existing presidencies

19. The provisions of the Government of India Act, 1833, as amended by this Act, and all other provisions now in force for the administration of

(Sec. 27.)

the executive government of the presidencies of Fort Saint George and Bombay respectively, and authorizing the revocation and suspension of the appointment of councils and the reduction of the number of councillors in such presidencies respectively, and as to the powers, duties, functions, and immunities of the governors of such presidencies respectively, and of such governors in their respective councils, and concerning or applicable to the appointment and provisional appointment of governors and members of council of the said presidencies respectively on vacancies, and otherwise providing for vacancies in the office of any such governor, and concerning the removal and dismissal of such governors and members of council, and the revocation of appointments and provisional appointments of governors and members of council of such presidencies, and concerning the salaries and emoluments of such governors and members of council, shall extend and be applicable in like manner to and in the case of any new presidency to be established as aforesaid under this Act, and also to and in the case of the presidency of Agra, in case the same be constituted under the provisions of the Government of India Act, 1833;

and the said provisions concerning appointments of governors and members of council on vacancies as amended by this Act, shall extend and be applicable to and for the first appointment of a governor and members of council of such new presidency and the presidency of Agra aforesaid.

20 and 21. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

22 to 24. [*Rep. 24 & 25 Vict., c. 67, s. 2.*]

25. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

26. [*Rep. 24 & 25 Vict., c. 67, s. 2.*]

27. All fines and penalties incurred by the sentence or order of any court of justice within the territories under the government of the East India Company, and all forfeitures for crimes of any real or personal estate within the said territories, and all real and personal estate within the said territories escheating or lapsing for want of an heir or successor, and all property within the said territories devolving as *bonâ vacantiâ* for want of a rightful owner, shall (as part of the revenues of India) belong to the East India Company in trust for her Majesty for the service of the government of India:

Fines and
penalties,
etc.

Provided also, that the Governor General in Council, and any other person or persons who may be authorized by any Act passed in that behalf by the Governor General in Council, shall have power (in cases where the same may appear suitable and proper) to make any grant or disposition of any property so accruing by forfeiture, escheat, or otherwise, to or in favour of any relative or connexion of the person from whom the same shall have accrued, or to or in favour of any other person or persons.

28. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

29 to 31. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

Regulations
as to absence
on sick leave
or furlough.

32. Nothing in any enactment now in force, or any charter, relating to the said Company, shall be taken to prevent the establishment, by the court of directors (under the direction and control of the said Board of Commissioners) at any time after the passing of this Act, and from time to time, of any regulations which they may deem expedient in relation to the absence on sick leave or furlough of all or any officers and persons in the service of the said Company in India, or receiving salaries from the said Company there, under which they respectively may be authorized to repair to and reside in Europe or elsewhere out of the limits of the said Company's charter without forfeiture of pay or salary during the times and under the circumstances during and under which they may now be permitted (while absent from their duty) to reside in places out of India within the limits of the said Company's charter, or during such times and under such circumstances as by such regulations may be permitted.

33 and 34. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

Salaries.

35. There shall be paid to the several officers herein-after named the several annual salaries set against the names of such officers respectively subject to such reduction as the court of directors, with the sanction of the said Board, may from time to time think fit (that is to say);

To the Commander-in-Chief of the Forces in India, one hundred thousand Company's rupees in lieu of all other pay and allowances;

To each Lieutenant Governor, one hundred thousand Company's rupees;

* * * * *

The several salaries aforesaid to be subject to the provisions and regulations of the Government of India Act, 1833, concerning the salaries thereby appointed * * *

3 & 4 Will
4, c. 85.

36 to 43. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

THE CUSTOMS CONSOLIDATION ACT, 1853.

(16 & 17 Vict., c. 107.)

An Act to amend and consolidate the Laws relating to the Customs of the United Kingdom and of the Isle of Man, and certain Laws relating to Trade and Navigation and the British Possessions.

[20th August, 1853.]

* * * * *

Regulations
as to the

329.¹ And with regard to the coasting trade of India it shall be lawful for

¹ This is the only section which appears to be applicable to India.

(Sec. 3.)

the Governor General of India in Council, to make any regulations authorizing or permitting the conveyance of goods or passengers from one part of the possessions of the East India Company to another part thereof in other than British ships, subject to such restrictions or regulations as he may think necessary; consting trade of India.

and such regulations shall be of equal force and effect with any laws and regulations which the said Governor General in Council is now or may hereafter be authorized to make, and shall be subject to disallowance and repeal in like manner as any other laws or regulations made by the said Governor General in Council, under the laws from time to time in force for the government of the British territories in India and shall be transmitted to England and be laid before both Houses of Parliament, in the same manner as any other laws or regulations which the Governor General in Council is now or may hereafter be empowered to make.

* * * * *

THE GOVERNMENT OF INDIA ACT, 1854.¹

(17 & 18 Vict., c. 77.)

An Act to provide for the Mode of passing Letters Patent and other Acts of the Crown relating to India, and for vesting certain Powers in the Governor General of India in Council.

[7th August, 1854.]

[Preamble.]

1. [Rep. as to U. K. 55 & 56 Vict., c. 19 (S. L. R.). Omitted as being obsolete.²]

2. [Rep. 41 & 42 Vict., c. 79 (S. L. R.).]

3. It shall be lawful for the Governor General of India in Council, with the sanction and approbation of the Court of Directors of the East India Company, acting under the control and direction of the Board of Commissioners for the Affairs of India, from time to time, by proclamation duly published, to take under the immediate authority and management of the said Governor General of India in Council any part or parts of the territories for the time being in the possession or under the government of the said company, and thereupon to give all necessary orders and directions respecting the administration of such part or parts of the said territories, or otherwise to provide for the administration thereof:

Governor General may assume the government of any parts of India.

¹ The provisions of this Statute cannot be affected by legislation in India—see 24 & 25 Vict., c. 67, s. 22. For digest and notes, see Ilbert's *Government of India*, pp. 308-309.

² See s. 3 of the Government of India Act, 1858 (21 & 22 Vict., c. 106), *post*, p. 299.

294 *The Government of India Act, 1854.* (Secs. 4-8.) [17 & 18 Vict., c. 77.]

The Foreign Tribunals Evidence Act, 1856. (Sec. 1.) [19 & 20 Vict., c. 113.]

Provided always, that no law or regulation in force at any such time as regards any such portion of territory shall be altered or repealed except by law or regulation made by the Governor General of India in Council.

Governor General may limit the extent of the authority of Governors, etc.

4. It shall be lawful for the said Governor General of India in Council, with the like sanction and approbation, from time to time, to declare and limit the extent of the authority of the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-West Provinces who is now or may be hereafter appointed.

Powers as to Presidency of Fort William in Bengal not transferred to Governor, etc., of Bengal, Agra, or North-West Provinces, vested in Governor General of India in Council.
Meaning of India.

5. All powers now or at any time vested in or exercised by the Governor in Council or Governor of the Presidency of Fort William in Bengal, or in or by the Governor General of India in Council in respect of such presidency, and which for the time being shall not have been transferred to the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-West Provinces, shall be vested in and may be exercised by the Governor General of India in Council; and the Governor General of India shall no longer be the Governor of the said Presidency of Fort William in Bengal.

6. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

7. In the construction of this Act "India" shall be construed to mean the territories for the time being in the possession and under the Government of the East India Company.

Construction.

8. This Act shall be read and construed as part of the Government of 16 & 17 Vict., c. 95.
India Act, 1853. •

THE FOREIGN TRIBUNALS EVIDENCE ACT, 1856.¹

(19 & 20 Vict., c. 113.)

An Act to provide for taking Evidence in Her Majesty's Dominions in relation to Civil and Commercial Matters pending before Foreign Tribunals.

[29th July, 1856.]

[*Preamble.*]

Order for the examination of witnesses in relation to matters pending before a foreign tribunal.

1. Where, upon an application for this purpose, it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in a foreign country, before which any civil or commercial matter is pending, is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge,

¹ See *Chitty's Statutes*, Tit. Evidence of Witnesses, p. 18; also *Taylor on Evidence*, Ed. 9, s. 1313.

(Secs. 2-5.)

it shall be lawful for such court or judge to order the examination upon oath, upon interrogatories or otherwise, before any person or persons named in such order, of such witness or witnesses accordingly;

and it shall be lawful for the said court or judge, by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just;

and any such order may be enforced in like manner as an order made by such court or judge in a cause depending in such court or before such judge.

2. A certificate under the hand of the ambassador, minister, or other diplomatic agent of any foreign power received as such by her Majesty, or in case there be no such diplomatic agent, then of the consul general or consul of any such foreign power at London received and admitted as such by her Majesty, that any matter in relation to which an application is made under this Act, is a civil or commercial matter pending before a court or tribunal in the country of which he is the diplomatic agent or consul having jurisdiction in the matter so pending, and that such court or tribunal is desirous of obtaining the testimony of the witness or witnesses to whom the application relates, shall be evidence of the matters so certified;

Certificate of ambassador, etc., sufficient evidence in support of application.

but where no such certificate is produced, other evidence to that effect shall be admissible.

3. It shall be lawful for every person authorized to take the examination of witnesses by any order made in pursuance of this Act to take all such examinations upon the oath of the witnesses or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized;

Examination of witnesses to be taken upon oath.

and if upon such oath or affirmation any person making the same wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury.

4. Provided always that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial.

Expenses of witnesses.

5. Provided also, that every person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a witness in any cause pending in the court by which or by a judge whereof or before the judge by whom

Extent of right of refusal to answer questions and to produce documents.

The Colonial Attornies' Relief Act. (Secs. 1-3.) [20 & 21 Vict., c. 39.]

the order for examination was made, would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

Certain Courts and judges to have authority under this Act.

6. Her Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who by any Order of her Majesty in Council may be appointed for this purpose, shall respectively be courts and judges having authority under this Act * * * * *

THE COLONIAL ATTORNIES' RELIEF ACT.¹

(20 & 21 Vict., c. 39.)

An Act to regulate the Admission of Attornies and Solicitors of Colonial Courts in Her Majesty's Superior Courts of Law and Equity in England, in certain cases.

[17th August, 1857.]

[Preamble.]

Short title. 1. This Act may for all purposes be cited as the Colonial Attornies' Relief Act.

Operation. 2. This Act shall not take effect in any one or more of Her Majesty's colonies or dependencies until Her Majesty has, by Order in Council to be made as herein-after mentioned, directed the same to come into operation in respect to such colony or dependency.

Colonial solicitors to be admitted to practise in England. 3. All persons who, being subjects of the British Crown, have been or shall hereafter be duly admitted and enrolled as attornies and solicitors in the Superior Courts of Law and Equity in those of Her Majesty's colonies or dependencies where the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in England, and where full service under articles of clerkship to an attorney-at-law for the space of five years at the least, and an examination to test the qualification of candidates, are or may be required previous to such admission, save only in the case of persons previously admitted as attornies or solicitors in the Superior Courts of Law or Equity in England, such colonies or dependencies to be from time to time specified in and by Order in Council, as herein-after

¹ See *Chitty's Statutes*, tit. Solicitors, p. 23.

(Secs. 4-6.)

provided, shall and may be admitted * * * * * solicitors in the High Court of Chancery in England, subject as herein-after provided.

4. No person shall be deemed qualified to be admitted as attorney or *Qualification.* solicitor under the provisions of this Act, unless he shall pass such examination to test its fitness and capacity as herein-after provided, and shall produce at such examination a certificate from the presiding judge of the Superior Court of Common Law in the colony or dependency where such person shall have been duly admitted an attorney and solicitor, and stating the amount of the stamps which have been paid by such person [on his articles of clerkship and admission to practise in such colony, in the form or to the effect as contained in Schedule A hereunto annexed, and shall further make affidavit (in such manner as shall be provided by order or regulation [to be made by the judges of the Superior Courts of Common Law, and the Master of the Rolls respectively, as here-inafter provided,]) that he is resident within the jurisdiction of the said Superior Courts of Law and Equity in England, and that he has ceased, for the space of twelve calendar months at the least, to practise as attorney or solicitor in any colonial court of law.

5. It shall be lawful * * * * * for the Master of the *Appointment of examiners, etc.* Rolls, as and when any person shall seek as aforesaid to be admitted as a solicitor, * * * * * at any time before he shall admit or issue a fiat for the admission of any such person as aforesaid, to examine and inquire by such ways and means as he shall think proper touching the qualification and the fitness or capacity of such person, * * * * *

and for that purpose it shall be lawful for him from time to time as application for admission as aforesaid shall be made, to appoint such persons as examiners, and to make such orders and regulations for conducting such examination, as he shall think proper, * * * * *

and if by such examination the Master of the Rolls shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as a solicitor, then, and not otherwise, he is hereby authorized and required

* * * to cause him to be admitted a solicitor * * * and his name to be enrolled as a solicitor of such Court, which admission shall be written on parchment, and signed by the Master of the Rolls, and shall be stamped with the stamps after mentioned.

6. The admission of any person as an attorney or solicitor under the *Stamp duties on admissions.* provisions of this Act shall be stamped with the stamps by law required to be impressed on the admission of * * * solicitors in England, * * *

and the admission first obtained shall be impressed with such further stamp as shall, together with the amount of stamps paid on articles of

(Sec. 7. Sch. (A).)

clerkship and admission in the colony (to be ascertained as herein-after provided), be equal in amount to the sum by law payable on articles of clerkship in England.

Power to Her Majesty, by order in Council, to direct this Act to come into operation in any one or more of the colonies or dependencies, etc.

7. Her Majesty may from time to time, by Order in Council, direct this Act to come into operation as to any one or more of Her Majesty's colonies or dependencies; and thereupon, but not otherwise, the provisions of this Act shall apply to persons duly admitted as attornies and solicitors in the Superior Courts of Law and Equity in such colonies or dependencies;

but no such order in Council, shall be made in respect of any colony, except upon application made by the governor or person exercising the functions of governor of such colony or dependency, and until it shall be shown to the satisfaction of Her Majesty's Principal Secretary of State for the Colonies that the system of jurisprudence as administered in such colony or dependency, and the qualification for admission as an attorney or solicitor in the Superior Courts of Law and Equity in such colony or dependency, answer to and fulfil the conditions specified in section 3 herein-before contained, and also that the solicitors of the Superior Courts of Law or Equity in England are admitted as attornies and solicitors in the Superior Courts of Law and Equity of such colony or dependency, on production of their certificates of admission in the English Courts, without service or examination in the colony or dependency.

SCHEDULE (A).

To all whom it may concern, I, [*name and style of judge*], do hereby certify that [*terms of certificate of admission granted to the attorney in the colony*], and that the said (*attorney's name*) is now duly enrolled as an attorney-at-law and solicitor in this colony, and entitled to practise as such; and further, that no charge or accusation has been established or is pending against the said [] in such his professional character or otherwise affecting his fair fame and repute.

And I find that the sum of £ was paid on articles of clerkship when the said was articulated, and the sum of £ on the certificate of admission when he was admitted to practise as aforesaid. [*To be signed and attested in the manner usual in other certificates granted by the judge.*]

(Secs. 1-6.)

THE EAST INDIA LOANS ACT, 1858.

(21 & 22 Vict., c. 3.)

An Act for enabling the East India Company to raise Money in the United Kingdom for the Service of the Government of India.

[22nd March, 1858.]

[Preamble.]

1. It shall be lawful for the Court of Directors of the East India Company, under the direction and control of the Board of Commissioners for the Affairs of India, at any time or times before the thirtieth day of April one thousand eight hundred and fifty-nine, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom for the service of the government of India any sum or sums of money not exceeding in the whole eight millions as hereinafter provided.

Power to
East India
Company to
raise any sum
not exceeding
eight millions.

2. It shall be lawful for the said Court of Directors under such direction and control as aforesaid from time to time to borrow upon bonds, to be issued under the common seal of the said Company, all or any part of the money hereby authorized to be raised as aforesaid; such bonds to be for such respective amounts, payable after such notice and at such rate or rates of interest, as the said Court of Directors, under such direction and control, may think fit.

Money may
be raised on
bonds of the
Company.

3. For raising all or any part of the money by this Act authorized to be raised which may not be borrowed on bond as aforesaid, it shall be lawful for the said Court of Directors, under such direction and control as aforesaid, to issue from time to time debentures, under the common seal of the said Company for such respective amounts and at such rate or rates of interest as the said Court of Directors, under such direction and control as aforesaid, think fit, such debentures to be issued at or for such prices and on such terms as may be determined by the said Court of Directors, under such direction and control as aforesaid.

Debentures
may be issued
by the
Company.

4. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively, and the interest on all such debentures shall be payable half-yearly on such days as shall be mentioned therein * * * * *

Payment of
principal and
interest on
debentures.

5. All debentures issued under the authority of this Act, and all right to and in respect of the principal monies secured thereby, and all interest due and accruing thereon, shall be transferable by the delivery of such debentures respectively.

Debentures
transferable
by delivery.

6. The whole amount of principal monies to be secured by bonds or debentures, or by bonds and debentures, to be issued under this Act, shall not

The whole
amount
secured by

bonds, etc.,
not to exceed
eight millions,
etc.

exceed eight millions, and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and fifty-nine, or, if Parliament be then sitting, after the end of the then session of Parliament * * * *

7. [*Rep. as to U. K. 38 & 39 Vict., c. 66. (S. L. R.) Omitted as being probably obsolete.*¹]

Securities to
be charged on
revenues of
India.

8. All bonds and debentures to be issued under this Act, and the principal monies and interest thereby secured, shall be charged on and payable out of the revenues of the territories under the government of the said Company, in like manner as other liabilities incurred on account of the government of the said territories.

Provisions of
5 & 6 Will. 4,
c. 64, s. 4,
as to composi-
tion for stamp
duties on
India bonds
extended to
bonds, etc.,
under this
Act.

9. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the said Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repealed and re-enacted with reference thereto.

10. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

11. [*Rep. 37 & 38 Vict., c. 3, s. 15.*]

Existing
powers of the
Company not
prejudiced.

12. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Company at the time of the passing thereof.

THE GOVERNMENT OF INDIA ACT, 1858.*

(21 & 22 Vict., c. 106.)

An Act for the better Government of India.

[2nd August, 1858.]

WHEREAS by the Government of India Act, 1853, the territories in the possession and under the government of the East India Company were continued under such government, in trust for Her Majesty, until Parliament should otherwise provide, subject to the provisions of that Act and of other Acts of Parliament, and the property and rights in the said Act referred to are held by the said Company in trust for Her Majesty for the purposes of the said government:

And whereas it is expedient that the said territories should be governed by and in the name of Her Majesty * * * * * ;

¹ This section took power for the Court of Directors to raise money for the repayment of principal monies. It should, perhaps, be expressly repealed as to British India. Cf. s. 7 of the East India Loan Act, 1859, post, p. 316.

² The provisions of this Statute cannot be affected by legislation in India—see 24 & 25 Vict., c. 67, s. 22. For digest and notes, see Ilbert's *Government of India*, pp. 309-313.

(Secs. 1-3.)

Transfer of the Government of India to Her Majesty.

1. The government of the territories now in the possession or under the government of the East India Company and all powers in relation to government vested in or exercised by the said Company in trust for Her Majesty, shall cease to be vested in or exercised by the said Company;

Territories under the government of the East India Company to be vested in Her Majesty, and powers to be exercised in her name.

and all territories in the possession or under the government of the said Company, and all rights vested in or which if this Act had not been passed might have been exercised by the said Company in relation to any territories, shall become vested in Her Majesty, and be exercised in her name;

and for the purposes of this Act India shall mean the territories vested in Her Majesty as aforesaid, and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid.

2. India shall be governed by and in the name of Her Majesty;

and all rights in relation to any territories which might have been exercised by the said Company if this Act had not been passed shall and may be exercised by and in the name of Her Majesty as rights incidental to the government of India;

India to be governed by and in the name of Her Majesty, etc.

and all the territorial and other revenues of or arising in India and all tributes and other payments in respect of any territories which would have been receivable by or in the name of the said Company if this Act had not been passed, shall be received for and in the name of Her Majesty, and shall be applied and disposed of for the purposes of the government of India alone, subject to the provisions of this Act.

3. Save as herein otherwise provided, one of Her Majesty's Principal Secretaries of State shall have and perform all such or the like powers and duties in anywise relating to the government or revenues of India, and all such or the like powers over all officers appointed or continued under this Act, as might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of the said Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India in relation to such government or revenues, and the officers and servants of the said Company respectively, and also all such powers as might have been exercised by the said Commissioners alone;

Secretary of State to exercise powers now exercised by the Company, etc.

and any warrant or writing under Her Majesty's Royal Sign Manual which by the Government of India Act, 1854,¹ or otherwise, is required to be countersigned by the President of the Commissioners for the Affairs of India,

Countersigning of warrants.

¹ S. 1 of the Government of India Act, 1854 (17 & 18 Vict., c. 77), which contained the provision referred to, was repealed as to the U. K. by 55 & 56 Vict., c. 19 (S. L. R.).

(Secs. 4-11.)

shall in lieu of being so countersigned be countersigned by one of Her Majesty's Principal Secretaries of State.

Four Principal and four Under Secretaries of State may sit as members in the House of Commons.

4. * * * * any four of Her Majesty's Principal Secretaries of State for the time being, and any four of the Under Secretaries for the time being to Her Majesty's Principal Secretaries of State, may sit and vote as members of the House of Commons;

but not more than four such Principal Secretaries and not more than four such Under Secretaries shall sit as members of the House of Commons at the same time.

5. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*¹]

Salaries of one Secretary of State and his Under Secretaries to be paid out of the revenue of India.

6. In case Her Majesty be pleased to appoint a fifth Principal Secretary of State, there shall be paid out of the revenues of India to such Principal Secretary of State and to his Under Secretaries respectively the like yearly salaries as may for the time being be paid to any other of such Secretaries of State and his Under Secretaries respectively.

Council of India.

Council of India established.

7. For purposes of this Act a Council shall be established, to consist of fifteen members, and to be styled the Council of India;

and henceforth the Council in India now bearing that name shall be styled the Council of the Governor General of India.

8. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

9. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

The major part of the Council to be persons who shall have served or resided ten years in India, etc.

10. The major part of the persons to be elected by the Court of Directors and the major part of the persons to be first appointed by Her Majesty after the passing of this Act to be members of the Council, shall be persons who shall have served or resided in India for ten years at the least, and (excepting in the case of late and present directors and officers on the home establishment of the East India Company who shall have so served or resided), shall not have last left India more than ten years next preceding the date of their appointment;

and no person other than a person so qualified shall be appointed or elected to fill any vacancy in the Council unless at the time of the appointment or election nine at the least of the continuing members of the Council be persons qualified as aforesaid.

Tenure of office of members of the Council.

11. Every member of the Council appointed or elected under this Act shall hold his office during good behaviour;

¹ There appears to be mistake in this connection in the Statutes Revised in which 38 & 39 Vict., c. 66 (S. L. R.) is cited as the repealing enactment.

(Secs. 12-16.)

Provided that it shall be lawful for Her Majesty to remove any such member from his office upon an address of both Houses of Parliament.

12. No member of the Council appointed or elected under this Act shall be capable of sitting or voting in Parliament.

Members of Council not to sit in Parliament. Salaries of members of Council.

13. There shall be paid to each member of the Council the yearly salary of one thousand two hundred pounds, out of the revenues of India.

14. [*Rep. 32 & 33 Vict., c. 97, s. 5.*]

15. The secretaries and other officers and servants on the home establishment of the said Company, and on the establishment of the Commissioners for the Affairs of India, immediately before the commencement of this Act, shall on such commencement be and form the establishment of the Secretary of State in Council;

Establishment of the Secretary of State in Council.

and the Secretary of State shall with all convenient speed make such arrangement of the said establishments, and such reductions therein, as may seem to him consistent with the due conduct of the public business, and shall within six months after the commencement of this Act submit a scheme for the permanent establishment to Her Majesty in Council;

and it shall be lawful for Her Majesty, by the advice of her Privy Council, upon consideration of such scheme, to fix and declare what shall constitute and be the establishment of the Secretary of State in Council, and what salaries shall be paid to the persons on the establishment;

and the Order of Her Majesty in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, provided Parliament be then sitting, or otherwise within fourteen days after the next meeting thereof;

and after such establishment has been formed by such Order in Council, no addition of persons shall be made to such establishment, nor any addition made to the salaries authorized by such Order, except by a similar Order in Council, to be laid in like manner before both Houses of Parliament.

16. After the first formation of the establishment, it shall be lawful for the Secretary of State in Council to remove any officer or servant belonging thereto, and also to make all appointments and promotions to and in such establishment;

Removal of officers and supply of vacancies in the establishment.

Provided, that the Order of Her Majesty in Council of the twenty-first day of May one thousand eight hundred and fifty-five, or such other regulation as may be from time to time established by Her Majesty for examinations, certificates, probation, or other tests of fitness in relation to appointments to junior situations in the Civil Service, shall apply to such appointments on the said establishment.

(Secs. 18-20.)

17. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

Super-
annuation to
officers on the
establishment
of the Secre-
tary of State
in Council.

18. It shall be lawful for Her Majesty by warrant countersigned as aforesaid, to grant to any such secretary, officer, or servant as aforesaid, retained on such last-mentioned establishment, such compensation, superannuation, or retiring allowance on his ceasing to hold office as might have been granted to him if this Act had not been passed;

and the transfer of any person to the service of the Secretary of State in Council shall be deemed to be a continuance of his previous appointment or employment, and shall not prejudice any claims which he might have had in respect of length of service, if his service under the said Company or Commissioners had continued; and it shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to any secretary, officer or servant appointed on the said establishment after the first formation thereof such compensation, superannuation, or retiring allowance as, under the Superannuation Act, 1834, or any other Act for the time being in force concerning 4 & 5 Will c. 24. superannuations and other allowances to persons having held civil offices in the public service, may be granted to persons appointed on the establishment of one of Her Majesty's Principal Secretaries of State.

Duties and procedure of the Council.

Duties of the
Council, etc.

19. The Council shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India.

But every order or communication sent to India shall be signed by one of the Principal Secretaries of State;

and, save as expressly provided by this Act, every order in the United Kingdom in relation to the government of India under this Act shall be signed by such Secretary of State;

and all despatches from governments and presidencies in India, and other despatches from India, which if this Act had not been passed should have been addressed to the Court of Directors or to their secret committee, shall be addressed to such Secretary of State.

Secretary of
State to
divide the
Council into
committees,
and to regu-
late the
transaction of
business.

20. It shall be lawful for the Secretary of State to divide the Council into committees for the more convenient transaction of business, and from time to time to re-arrange such committees, and to direct what departments of the business in relation to the government of India under this Act shall be under such committees respectively, and generally to direct the manner in which all such business shall be transacted.

(Secs. 21-24.)

21. The Secretary of State shall be the President of the Council, with power to vote;

President and
Vice-President
of the
Council.

and it shall be lawful for such Secretary of State in Council to appoint from time to time any member of such Council to be Vice-President thereof;

and any such Vice-President may at any time be removed by the Secretary of State.

22. All powers by this Act required to be exercised by the Secretary of State in Council, and all powers of the Council, shall and may be exercised at meetings of such Council, at which not less than five members shall be present;

Meeting of
the Council.

and at every meeting the Secretary of State, or in his absence the Vice-President, if present, shall preside, and in the absence of the Secretary of State and Vice-President, one of the members of the Council present shall be chosen by the members present to preside at the meeting;

and such Council may act notwithstanding any vacancy therein:

Meetings of the Council shall be convened and held when and as the Secretary of State shall from time to time direct:

Provided that one such meeting at least be held in every week.

23. At any meeting of the Council at which the Secretary of State is present, if there be a difference of opinion on any question other than the question of the election of a member of Council, or other than any question with regard to which a majority of the votes at a meeting is herein-after declared to be necessary, the determination of the Secretary of State shall be final;

Procedure at
meetings.

and in case of an equality of votes at any meeting of the Council, the Secretary of State, if present, and in his absence the Vice-President, or presiding member, shall have a casting vote;

and all acts done at any meeting of the Council in the absence of the Secretary of State, except the election of a member of the Council, shall require the sanction or approval in writing of the Secretary of State;

and in case of difference of opinion on any question decided at any meeting, the Secretary of State may require that his opinion and the reasons for the same be entered in the minutes of the proceedings, and any member of the Council who may have been present at the meeting may require that his opinion, and any reasons for the same that he may have stated at the meeting, be entered in like manner.

24. Every order or communication proposed to be sent to India, and every order proposed to be made in the United Kingdom by the Secretary of State, under this Act, shall, unless the same has been submitted to a meeting of the Council, be placed in the council room for the perusal of all members of

Orders, etc., to
be open to the
perusal of
members of
Council who

(Secs. 25-29.)

may record their opinions. the Council during seven days before the sending or making thereof, except in the cases herein-after provided;

and it shall be lawful for any member of the Council to record in a minute book to be kept for that purpose, his opinion with respect to each such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State.

Secretary of State acting against opinions of the majority to record his reasons.

Provision for cases of urgency.

25. If a majority of the Council record as aforesaid their opinions against any act proposed to be done, the Secretary of State shall, if he do not defer to the opinions of the majority, record his reasons for acting in opposition thereto.

26. Provided that where it appears to the Secretary of State that the despatch of any communication, or the making of any order, not being an order for which a majority of the votes at a meeting is hereby made necessary, is urgently required, the communication may be sent or order given notwithstanding the same may not have been submitted to a meeting of the Council or deposited for seven days as aforesaid, the urgent reasons for sending or making the same being recorded by the Secretary of State, and notice thereof being given to every member of the Council, except in the cases herein-after mentioned.

Orders now sent through secret committee may be sent by Secretary of State without communication with the Council.

27. Provided also, that any order, not being an order for which a majority of votes at a meeting is hereby made necessary, which might, if this Act had not been passed, have been sent by the Commissioners for the Affairs of India through the secret committee of the Court of Directors to Governments or Presidencies in India, or to the officers or servants of the said Company, may, after the commencement of this Act, be sent to such Governments or Presidencies, or to any officer or servant in India, by the Secretary of State without having been submitted to a meeting or deposited for the perusal of the members of the Council, and without the reasons being recorded or notice thereof given as aforesaid.

As to communication of secret despatches from India.

28. Any despatches to Great Britain which might if this Act had not been passed have been addressed to the secret committee of the Court of Directors, may be marked "secret" by the authorities sending the same;

and such despatches shall not be communicated to the members of the Council, unless the Secretary of State shall so think fit and direct.

Appointments and Patronage.

Appointments to be made by or with the approbation of Her Majesty.

29. The appointments of Governor General of India * * * and Governors of Presidencies in India now made by the Court of Directors with the approbation of Her Majesty, and the appointments of Advocate General for the several Presidencies now made with the approbation

(Secs. 30-32.)

of the Commissioners for the Affairs of India, shall be made by Her Majesty by warrant under Her Royal Sign Manual; * * * * *

the appointments of the Lieutenant Governors of provinces or territories shall be made by the Governor General of India, subject to the approbation of Her Majesty;

and all such appointments shall be subject to the qualifications now by law affecting such offices respectively.

30. All appointments to offices, commands and employments in India, all promotions, which by law, or under any regulations, usage or custom, are now made by any authority in India, shall continue to be made in India by the like authority, and subject to the qualifications, conditions, and restrictions now affecting such appointments respectively; Appointments now made in India to continue to be made there.

but the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, shall have the like power to make regulations for the division and distribution of patronage and power of nomination among the several authorities in India, and the like power of restoring to their stations, offices, or employments, officers and servants suspended or removed by any authority in India, as might have been exercised by the said Court of Directors, with the approbation of the Commissioners for the Affairs of India, if this Act had not been passed. Powers of Secretary of State in Council as to appointments, etc., in India.

31. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

32. * * * * * regulations shall be made by the Secretary of State in Council, with the advice and assistance of the commissioners for the time being acting in execution of Her Majesty's Order in Council of twenty-first May one thousand eight hundred and fifty-five "for regulating the admission of persons to the civil service of the Crown. for admitting all persons being natural-born subjects of Her Majesty (and of such age and qualification as may be prescribed in this behalf) who may be desirous of becoming candidates for appointment to the Civil Service of India to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations, under the superintendence of the said last-mentioned commissioners or of the persons for the time being intrusted with the carrying out of such regulations as may be from time to time established by Her Majesty for examination, certificate, or other test of fitness in relation to appointments to junior situations in the civil service of the Crown; Secretary of State in Council to make regulations for the admission of candidates to the Civil Service of India.

and the candidates who may be certified by the said commissioners or other persons as aforesaid to be entitled under such regulations shall be recommended for appointment according to the order of their proficiency as shown by such examinations;

(Secs. 33-37.)

and such persons only as shall have been so certified as aforesaid shall be appointed or admitted to the Civil Service of India by the Secretary of State in Council:

Regulations made by Secretary of State to be laid before Parliament.

Provided always, that all regulations to be made by the said Secretary of State in Council under this Act shall be laid before Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting thereof.

Other appointments and admissions to service vested in Her Majesty.

33. All appointments to cadetships, naval and military, and all admissions to service not herein otherwise expressly provided for, shall be vested in Her Majesty;

and the names of persons to be from time to time recommended for such cadetships and service shall be submitted to Her Majesty by the Secretary of State.

Regulations to be made for admitting persons to be examined for cadetships in engineers and artillery.

34. * * * * Regulations shall be made for admitting any persons being natural-born subjects of Her Majesty (and of such age and qualifications as may be prescribed in this behalf) who may be desirous of becoming candidates for cadetships in the engineers and in the artillery, to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations.

Not less than one-tenth of persons recommended for military cadetships to be selected from sons of persons who have served in India. Nominations for cadetships to be made by Secretary of State and members of Council.

35. Not less than one-tenth of the whole number of persons to be recommended in any year for military cadetships (other than cadetships in the engineers and artillery) shall be selected according to such regulations as the Secretary of State in Council may from time to time make in this behalf from among the sons of persons who have served in India in the military or civil services of Her Majesty, or of the East India Company.

36. Except as aforesaid, all persons to be recommended for military cadetships shall be nominated by the Secretary of State and members of Council, so that out of seventeen nominations the Secretary of State shall have two and each member of Council shall have one;

but no person so nominated shall be recommended unless the nomination be approved of by the Secretary of State in Council.

Regulations as to appointments and admissions to service.

37. Save as herein-before provided, all powers of making regulations in relation to appointments and admissions to service and other matters connected therewith and of altering or revoking such regulations, which if this Act had not been passed might have been exercised by the Court of Directors or Commissioners for the Affairs of India, may be exercised by the Secretary of State in Council;

(Secs. 39-41.)

and all regulations in force at the time of the commencement of this Act in relation to the matters aforesaid shall remain in force, subject nevertheless to alteration or revocation by the Secretary of State in Council as aforesaid.

38. Any writing under the Royal Sign Manual, removing or dismissing any person holding any office, employment, or commission, civil or military, in India, of which, if this Act had not been passed, a copy would have been required to be transmitted or delivered within eight days after being signed by Her Majesty to the chairman or deputy chairman of the Court of Directors, shall, in lieu thereof, be communicated within the time aforesaid to the Secretary of State in Council.

Removal of officers by Her Majesty to be communicated to Secretary of State in Council.

Transfer of Property.

39. All lands and hereditaments, monies, stores, goods, chattels, and other real and personal estate of the said Company, subject to the debts and liabilities affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and all other emoluments, which the said Company shall be seized or possessed of or entitled to at the time of the commencement of this Act, except the capital stock of the said Company and the dividend thereon, shall become vested in Her Majesty, to be applied and disposed of, subject to the provisions of this Act, for the purposes of the Government of India.

Real and personal property of the Company to vest in Her Majesty for the purposes of the Government of India.

40.¹ The Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall have full power to sell and dispose of all real and personal estate whatsoever for the time being vested in Her Majesty under this Act, as may be thought fit, or to raise money on any such real estate by way of mortgage, and make the proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interests therein, stores, goods, chattels, and other property, and to enter into any contracts whatsoever, as may be thought fit for the purposes of this Act;

Powers to sell and purchase, and to enter into contracts, vested in Secretary of State in Council, etc.

and all property so acquired shall vest in Her Majesty for the service of the Government of India; and any conveyance or assurance of or concerning any real estate to be made by the authority of the Secretary of State in Council may be made under the hands and seals of three members of the Council.¹

Revenues.

41. The expenditure of the revenues of India, both in India and elsewhere, shall be subject to the control of the Secretary of State in Council;

Expenditure of revenues of India subject to control of

¹ But see further 22 & 23 Vict., c. 41.

(Secs. 42-43.)

Secretary of
State in
Council.

and no grant or appropriation of any part of such revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council.

Existing and
future debts
and liabilities
of the Com-
pany and ex-
penses to be
charged on
revenues of
India.

42. * * * * all the bond, debenture, and other debt of the said Company in Great Britain, and all the territorial debt and all other debts of the said Company, and all sums of money, costs, charges, and expenses, which if this Act had not been passed would after the time appointed for the commencement thereof have been payable by the said Company out of the revenues of India, in respect or by reason of any treaties, covenants, contracts, grants, or liabilities then existing, and all expenses, debts, and liabilities which after the commencement of this Act shall be lawfully contracted and incurred on account of the Government of India, and all payments under this Act, shall be charged and chargeable upon the revenues of India alone, as the same would have been if this Act had not been passed, and such expenses, debts, liabilities, and payments as last aforesaid had been expenses, debts, and liabilities lawfully contracted and incurred by the said Company; and such revenues shall not be applied to any other purpose whatsoever;

and all other monies vested in or arising or accruing from property or rights vested in Her Majesty under this Act, or to be received or disposed of by the Council under this Act, shall be applied in aid of such revenues *
* * * *

Revenues
remitted to
Great Britain,
and monies
arising in
Great Britain,
to be paid to
Secretary of
State in Coun-
cil, etc.

43. Such part of the revenues of India as shall be from time to time remitted to Great Britain, and all monies of the said Company in their Treasury or under the care of their cashier, and all other monies in Great Britain of the said Company, or which would have been received by them in Great Britain if this Act had not been passed, and all monies arising or accruing in Great Britain from any property or rights vested in Her Majesty by this Act, or from the sale or disposition thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act;

and all such monies, except as herein-after otherwise provided, shall be paid into the Bank of England, to the credit of an account to be opened by the Governor and Company of the Bank of England, to be intituled "The Account of the Secretary of State in Council of India;"

and all monies to be placed to the credit of such account under this Act shall be paid out upon drafts or orders signed by three members of the Council and countersigned by the Secretary of State or one of his Under Secretaries; and such account shall be a public account:

Provided always, that the Secretary of State in Council may cause to be kept from time to time, under the care of their cashier, in an account to be

(Secs. 45-48.)

kept at the Bank of England, such sum or sums of money as they may deem necessary for the payments now made out of money under the care of the cashier of the said Company.

44. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

45. There shall be raised in the books of the Governor and Company of the Bank of England such accounts as may be necessary in respect of any stock or stocks of Government annuities; and all such accounts respectively shall be intitled "The Stock Account of the Secretary of State in Council of India;" and every such account shall be a public account.

Stock accounts to be opened at the Bank.

46. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

47. The Secretary of State in Council, by letter of attorney, executed by three members of the Council and countersigned by the Secretary of State or one of his Under Secretaries, may authorize all or any of the cashiers of the Bank of England to sell and transfer all or any part of the stock or stocks standing or that may thereafter stand in the books of the said Bank to the several accounts of the Secretary of State in Council, and to purchase and accept stock on the said accounts, and to receive the dividends due and to become due on the several stocks standing or that may thereafter stand on the said accounts, and by any writing signed by three members of the Council and countersigned as aforesaid, may direct the application of the monies to be received in respect of such sales and dividends;

Power to grant letters of attorney for sale, etc., of stock and receipt of dividends.

but no stock shall be purchased or sold and transferred by any of the said cashiers, under the authority of such general letter of attorney, except upon an order in writing directed to the said chief cashier and chief accountant from time to time and duly signed and countersigned as aforesaid.

48. All Exchequer bills, Exchequer bonds, or other Government securities, or other securities, of whatsoever kind, not herein-before referred to, which shall be held by the Governor and Company of the Bank of England in trust for or on account of the East India Company at the time of the commencement of this Act, shall thenceforward be held by the said Governor and Company in trust for and on account of the Secretary of State in Council;

Provision as to Exchequer bills, bonds, and other securities.

and all such securities as aforesaid, and all such securities as may thereafter be lodged with the said Governor and Company by or on behalf of the Secretary of State in Council, shall and may be disposed of and the proceeds thereof applied as may be authorized by order in writing signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, and directed to the said chief cashier and chief accountant.

(Secs. 49-52.)

Powers of borrowing transferred to Secretary of State in Council, etc.

49. All powers of issuing bonds, debentures, and other securities for money in Great Britain which, if this Act had not been passed, might have been exercised by the said Company, or the Court of Directors, under the direction and control of the Commissioners for the Affairs of India, or otherwise, shall and may be exercised by the Secretary of State in Council, with the concurrence of a majority of votes at a meeting;

and such securities as might have been issued under the seal of the said Company shall be issued under the hands of three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries.

Present system of issuing warrants for payments to be continued.

50. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

51. The regulations and practice now acted on by the Court of Directors on the issue of warrants or authorities for the payment of money shall be maintained and acted on by the Secretary of State in Council of India under this Act until the same be altered by the authority of Her Majesty in Council:

Provided * * * * that warrants or authorities which have heretofore been signed by two directors of the East India Company shall, after the commencement of this Act, be signed by three members of the Council of India.

Audit of accounts in Great Britain.

52. It shall be lawful for Her Majesty, by warrant under her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, to appoint from time to time a fit person to be auditor of the accounts of the Secretary of State in Council, and to authorize such auditor to appoint and remove from time to time such assistants as may be specified in such warrant, and every such auditor shall hold office during good behaviour;

and there shall be paid to such auditor and assistants out of the revenues of India such respective salaries as Her Majesty, by warrant as aforesaid countersigned as aforesaid, may direct;

and such auditor shall examine and audit the accounts of the receipt, expenditure, and disposal in Great Britain of all monies, stores, and property applicable for the purposes of this Act; and the Secretary of State in Council shall by the officers and servants of the establishment produce and lay before such auditor from time to time all such accounts, accompanied by proper vouchers for the support of the same, and shall submit to his inspection all books, papers, and writings having relation thereto;

and such auditor shall have power to examine all such officers and servants in Great Britain of the establishment as he may see fit in relation to such accounts, and the receipt, expenditure, or disposal of such monies, stores, and

(Sec. 53.)

property, and for that purpose, by writing under his hand, to summon before him any such officer or servant;

and such auditor shall report from time to time to the Secretary of State in Council his approval or disapproval of such accounts, with such remarks and observations in relation thereto as he may think fit, specially noting any case, if such there shall be, in which it shall appear to him that any money arising out of the revenues of India has been appropriated to other purposes than those of the Government of India to which alone they are declared to be applicable; and shall specify in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account or have not been appropriated, in conformity with the provisions of this Act, or have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies, or irregularities, which may appear in such accounts, or in the authorities, vouchers, or documents having relation thereto;

and all such reports shall be laid before both Houses of Parliament by such auditor, together with the accounts of the year to which the same may relate.

53. The Secretary of State in Council shall, within the first fourteen days during which Parliament may be sitting next after the first day of May in every year, lay before both Houses of Parliament an account for the financial year preceding that last completed of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, at each of the several Presidencies or Governments, and of all the annual receipts and disbursements at home and abroad on account of the Government of India, distinguishing the same under the respective heads thereof, together with the latest estimate of the same for the last financial year, and also the amount of the debts chargeable on the revenues of India, with the rates of interest they respectively carry, and the annual amount of such interest, the state of the effects and credits at each Presidency or Government, and in England or elsewhere applicable to the purposes of the Government of India, according to the latest advices which have been received thereof, and also a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof;

Accounts to
be annually
laid before
Parliament.

and if any new or increased salaries or pensions of fifty pounds a year or upwards have been granted or created within any year, the particulars thereof shall be specially stated and explained at the foot of the account of such year;

and such account shall be accompanied by a statement prepared from detailed reports from each Presidency and district in India in such form as shall best exhibit the moral and material progress and condition of India in each such Presidency.

When order to commence hostilities is sent to India, the fact to be communicated to Parliament.

54. When any order is sent to India directing the actual commencement of hostilities by Her Majesty's Forces in India, the fact of such order having been sent shall be communicated to both Houses of Parliament within three months after the sending of such order, if Parliament be sitting, unless such order shall have been in the meantime revoked or suspended, and, if Parliament be not sitting at the end of such three months, then within one month after the next meeting of Parliament.

Except for repelling invasion, the revenues of India not applicable for any military operation beyond the frontiers.

55. Except for preventing or repelling actual invasion of Her Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by Her Majesty's Forces charged upon such revenues.

Existing Establishments.

Indian Military and Naval Forces to remain under existing conditions of service.

56. The Military and Naval Forces of the East India Company shall be deemed to be the Indian Military and Naval Forces of Her Majesty, and shall be under the same obligations to serve Her Majesty as they would have been under to serve the said Company, and shall be liable to serve within the same territorial limits only, for the same terms only, and be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company: such Forces, and all persons hereafter enlisting in or entering the same, shall continue and be subject to all Acts of Parliament, laws of the Governor General of India in Council, and articles of war, and all other laws, regulations, and provisions, relating to the East India Company's Military and Naval Forces respectively, as if Her Majesty's Indian Military and Naval Forces respectively had throughout such Acts, laws, articles, regulations, and provisions been mentioned or referred to, instead of such Forces of the said Company;

and the pay and expenses of and incident to Her Majesty's Indian Military and Naval Forces shall be defrayed out of the revenues of India.

Provision for persons hereafter entering Her Majesty's Indian Forces.

57. Provided that it shall be lawful for Her Majesty from time to time by Order in Council to alter or regulate the terms and conditions of service under which persons hereafter entering Her Majesty's Indian Forces shall be commissioned, enlisted, or entered to serve;

(Secs. 58-63.)

and the forms of attestation and of the oath or declaration to be used and taken or made respectively on attesting persons to serve in Her Majesty's Indian Forces shall be such as Her Majesty with regard to the European Forces, and the Governor General of India in Council with regard to the Native Forces, shall from time to time direct:

Provided that every such Order in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and, if Parliament be not sitting, then within fourteen days after the next meeting thereof.

58. All persons who at the time of the commencement of this Act shall hold any offices, employments, or commissions whatever under the said Company in India shall thenceforth be deemed to hold such offices, employments, and commissions under Her Majesty as if they had been appointed under this Act and shall be paid out of the revenues of India;

Officers, etc., in employ of the Company at the commencement of this Act to be deemed to hold offices under Her Majesty.

and the transfer of any person to the service of Her Majesty shall be deemed to be a continuance of his previous service, and shall not prejudice any claims to pension, or any claims on the various annuity funds of the several Presidencies in India, which he might have had if this Act had not been passed.

59. All orders, regulations, and directions lawfully given or made before the commencement of this Act by the Court of Directors or by the Commissioners for the Affairs of India shall remain in force; but the same shall, from and after the commencement of this Act, be deemed to be the orders, regulations, and directions under this Act, and take effect and be construed and be subject to alteration or revocation accordingly.

All orders of the Court of Directors or Board of Control given before commencement of this Act to remain in force.

60 to 62. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

63. In case the person who shall be entitled under any provisional appointment to succeed to the office of Governor General of India upon a vacancy therein, or who shall be appointed absolutely to assume that office, shall be in India (upon or after the happening of the vacancy, or upon or after the receipt of such absolute appointment, as the case may require), but shall be absent from Fort William in Bengal, or from the place where the Council of the Governor General of India may then be, and it shall appear to him necessary to exercise the powers of Governor General before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General;

Governor General may exercise his powers before he takes his seat in Council, etc.

and after such proclamation, and thenceforth until he shall repair to Fort William or the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations;

(Secs. 64-65.)

and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council;

Provided that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by the person who shall have so assumed the said office of Governor General;

and when the office of Governor General is assumed under the foregoing provision, if there be at any time before the Governor General takes his seat in Council no Vice-President of the Council authorized to preside at meetings for making laws and regulations (as provided by section 22¹ of the Government of India Act, 1858), the senior ordinary member of Council then present shall preside therein, with the same powers as if a Vice-President had been appointed and were absent.

Continuance of existing Enactments.

Existing provisions to be applicable to Secretary of State in Council, etc.

64. All Acts and provisions now in force under charter or otherwise concerning India shall, subject to the provisions of this Act, continue in force, and be construed as referring to the Secretary of State in Council in the place of the said Company and the Court of Directors and Court of Proprietors thereof;

and all enactments applicable to the officers and servants of the said Company in India, and to appointments, to office or admissions to service by the said Court of Directors, shall, subject to the provisions of this Act, remain applicable to the officers and servants continued and to the officers and servants appointed or employed in India and to appointments to office and admissions to service under the authority of this Act.

Actions and Contracts.

Secretary of Council may sue and be sued.

65. The Secretary of State in Council shall and may sue and be sued as well in India as in England by the name of the Secretary of State in Council as a body corporate;

and all persons and bodies politic shall and may have and take the same suits, remedies, and proceedings, legal and equitable, against the Secretary of State in Council of India as they could have done against the said Company;

and the property and effects hereby vested in Her Majesty for the purposes of the government of India, or acquired for the said purposes, shall be subject and liable to the same judgments and executions as they would while

¹ S. 22, 16 & 17 Vict., c. 95, was repealed by 24 & 25 Vict., c. 67, s. 2—see s. 15 of that Act.

(Secs. 67-71.)

22 Vict., c. 11.] *The East India Loan Act, 1859. (Sec. 1.)*

vested in the said Company have been liable to in respect of debts and liabilities lawfully contracted and incurred by the said Company.¹

66. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

67. All treaties made by the said Company shall be binding on Her Majesty; and all contracts, covenants, liabilities, and engagements of the said Company made, incurred, or entered into before the commencement of this Act may be enforced by and against the Secretary of State in Council in like manner and in the same courts as they might have been by and against the said Company if this Act had not been passed.

Treaties shall be binding on Her Majesty, and contracts, etc., of Company may be enforced.

68. Neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contract, covenant, or engagement of the said Company as aforesaid, or in respect of any contract entered into under the authority of this Act, or other liability of the said Secretary of State or Secretary of State in Council in their official capacity; but all such liabilities, and all costs and damages in respect thereof, shall be satisfied and paid out of the revenues of India.

Members of Council not personally liable.

71. * * * * the said Company shall not, after the passing of this Act, be liable in respect of any claim, demand, or liability which has arisen or may hereafter arise out of any treaty, covenant, contract, grant, engagement, or fiduciary obligation made, incurred, or entered into by the said Company before the passing of this Act, whether the said Company would, but for this Act, have been bound to satisfy such claim, demand, or liability out of the revenues of India, or in any other manner whatsoever.

Company not to be liable in respect of any claim arising out of any covenant, etc., made before the passing of this Act.

72 & 73. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]74. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]75. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

THE EAST INDIA LOAN ACT, 1859.

(22 Vict., c. 11.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the service of the Government of India.

[8th April, 1859.]

[Preamble.]

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom for the service of the govern-

Secretary of State in Council of India may raise any sum not exceeding

¹ See *P. & O. S. N. Co. v. Secy. of State for India*, 1 Bnn., H. C., Rep., Appendix, pp. 4, 5, per Peacock, C.J.

(Secs. 2-8.)

seven mil-
lions.

Money may
be raised on
bonds under
the hands of
three mem-
bers of the
Council of
India coun-
tersigned by
Secretary of
State, or
Under Secre-
tary.
Money not
borrowed in
bond may be
raised on
debentures.

Payment of
principal and
interest on
debentures.

Debentures
transferable
by delivery
or deed.

The whole
amount secur-
ed by bonds,
etc., not to
exceed seven
millions.

Bonds, etc., to
be charged on
revenues of
India.

ment of India any sum or sums of money not exceeding in the whole seven millions as herein-after provided.

2. It shall be lawful for the said Secretary of State in Council from time to time to borrow upon bonds to be issued under the hands of three members of the Council of India, and countersigned by the Secretary of State for India, or one of his Under Secretaries or his Assistant Under Secretary, all or any part of the money hereby authorized to be raised as aforesaid; such bonds to be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

3. For raising all or any part of the money by this Act authorized to be raised which may not be borrowed on bond as aforesaid, it shall be lawful for the said Secretary of State in Council to issue from time to time debentures under the hands of three members of the said Council, and countersigned as aforesaid for such respective amounts, and at such rate or rates of interest, as the said Secretary of State in Council may think, fit; such debentures to be issued at or for such prices and on such terms as may be determined by the said Secretary of State in Council.

4. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be payable half-yearly on such days as shall be mentioned therein * * * *.

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal moneys secured thereby, and all interest due and accruing thereon, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed.

6. The whole amount of principal moneys to be secured by bonds or debentures, or by bonds and debentures, to be issued under this Act, shall not exceed seven millions;

and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then session of Parliament * * * *.

7. [*Rep. as to U. K. 38 & 39 Vict., c. 66 (8. L. R.). Omitted as being probably obsolete.*]

8. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

¹ See foot note to s. 7 of the East India Loan Act, 1858, *ante*, p. 298.

22 Vict., c. 20.] *The Evidence by Commission Act, 1859. (Sec. 1.)*

9. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Application of 5 & 6 Will. 4, c. 64, s. 4, to bonds and debentures under this Act.

10. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

11. [*Rep. 37 & 38 Vict., c. 3, s. 15.*]

12. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of the passing thereof.

Saving of existing powers.

THE EVIDENCE BY COMMISSION ACT, 1859.¹

[22 Vict., c. 20.]

An Act to provide for taking Evidence in Suits and Proceedings pending before Tribunals in Her Majesty's Dominions in Places out of the Jurisdiction of such Tribunals.

[19th April, 1859.]

[Preamble.]

1. Where upon an application for this purpose it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in Her Majesty's dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such court or tribunal of any witness or witnesses out of the jurisdiction of such court or tribunal, and within the jurisdiction of such first-mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination before the person or persons appointed, and in manner and form directed by such commission, order, or other process as aforesaid, of such witness or witnesses accordingly;

Examination of witnesses out of the jurisdiction of any tribunal in Her Majesty's possessions in relation to any suit pending before such tribunal.

and it shall be lawful for the said court or judge by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writing or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just;

¹ See *Taylor on Evidence*, Ed. 9, §§ 1314, 1315.

(Secs. 2-6.)

and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such court or judge in a cause depending in such court or before such judge.

Persons giving false evidence, guilty of perjury.

2. Every person examined as a witness under any such commission, order, or other process as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence shall be deemed and taken to be guilty of perjury.

Payment of expenses.

3. Provided always that every person whose attendance shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

Power to persons to refuse to answer questions or to produce documents.

4. Provided also, that every person examined under any such commission, order, or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and other questions which a witness in any cause pending in the court by which, or by a judge whereof, or before the judge by whom the order for examination was made, would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

What courts and judges to have authority under this Act.

5. Her Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who, by any order of Her Majesty in Council, may be appointed for this purpose, shall respectively be Courts and judges having authority under this Act.

Power to frame rules, etc., for giving effect to provisions of this Act.

6. It shall be lawful for the Lord Chancellor of Great Britain, with the assistance of two of the judges of the Courts of Common Law at Westminster, so far as relates to England, and for the Lord Chancellor of Ireland, with the assistance of two of the judges of the Courts of Common Law at Dublin, so far as relates to Ireland, and for two of the judges of the Court of Session so far as relates to Scotland, and for the chief or only judge of the Supreme Court in any of Her Majesty's colonies or possessions abroad so far as relates to such colony or possession, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.¹

¹ Ext. 48 & 49 Vict., c. 74, s. 5.

(Secs. 1-5.)

THE EAST INDIA LOAN (NO. 2) ACT, 1859.

(22 & 23 Vict., c. 39.)

*An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.**(13th August, 1859.)**[Preamble recites 21 & 22 Vict., c. 3 ; 22 Vict., c. 11.]*

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty, or if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole five millions ;

Secretary of State in Council of India may raise any sum not exceeding five millions.

and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

2. All bonds issued under the authority of this Act, or hereafter issued under the authority of either of the recited Acts, may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

How bonds may be issued.

3. All debentures issued under the authority of this Act, or hereafter issued under the authority of either of the recited Acts, may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts and at such rate or rates of interest as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

How debentures may be issued.

4. All debentures issued under the authority of this Act shall be paid off at par, at a time or times to be mentioned in such debentures respectively ; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein ;

Payment of principal and interest on debentures.

and the principal moneys and interest secured by such debentures, and by all debentures issued under the authority of either of the recited Acts, shall be payable either at the treasury of the Secretary of State in Council in London, or at the Bank of England.

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys

Debentures to be transferred.

by delivery or deed. secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed :

Coupons for interest to pass by delivery.

Provided that the coupons for interest annexed to any debenture issued under the authority of this Act or under the authority of either of the recited Acts shall pass by delivery.

Payment of interest and principal of capital stock and annuities.

6. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per cent. per annum, as the Secretary of State in Council may think fit ;

and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council ; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock ;

and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

7. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys, thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses ;

and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof ;

and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law ;

and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Annuities to be personal estate.

8. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London or otherwise.

(Secs. 9-15.)

9. The whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed five millions ;

The whole amount charged on revenues of India not to exceed five millions, etc.

and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal moneys previously secured under this Act, as hereinafter provided.

10. Upon or for the repayment of any principal money secured under the authority of this Act or under the authority of either of the recited Acts, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes afore-said, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act or either of the recited Acts may require to be repaid ;

Power to raise money for payment of principal money.

but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid.

11. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Bonds, etc., to be charged on revenues of India.

12. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act as if such provisions were here repeated and re-enacted with reference thereto.

Application of 5 & 6 Will. 4, c. 64, s. 4, to bonds, etc., under this Act.

13. [*Rep. as to U. R. 55 & 56 Vict., c. 19 (S. L. R.). Omitted as being obsolete.*]

14. [*Rep. 37 & 39 Vict., c. 3, s. 15.*]

15. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

Saving power of Secretary of State in Council.

(Secs. 1-2.)

THE GOVERNMENT OF INDIA ACT, 1859.¹

(22 & 23 Vict., c. 41.)

An Act to amend the Act for the better Government of India.

[13th August 1859.]

[Preamble recites 21 & 22 Vict., c. 106, and doubts as to S. 40 of that Act.]

Governor
General, etc.,
may sell,
purchase, and
enter into
contracts.

1. The Governor General of India in Council, the Governor in Council of Fort St. George, the Governor in Council of Bombay, the Lieutenant Governor of the North-Western Provinces now under the Presidency of Fort William in Bengal, respectively, or any officer for the time being intrusted with the government, charge, or care of any presidency, province, or district in India, subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall from time to time prescribe, are hereby respectively empowered to sell and dispose of all real and personal estate whatsoever in India for the time being vested in Her Majesty under the said Act, within the limits of their respective governments, provinces, or districts, or to raise money on any such real estate by way of mortgage, and to make proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interest therein, stores, goods, chattels, and other property in India, within the said respective limits, and to enter into any contracts whatsoever, within the said respective limits, for the purposes of the said Act;

and all property so acquired shall vest in Her Majesty for the service of the government of India.

Mode of
executing
deeds, etc.,
in India.

2. The Secretary of State in Council may be named as a party to and such deed, contract, or other instrument;

and it shall be sufficient to use the designation of Secretary of State in Council in such deed, contract, or other instrument;

and the same may be expressed to be executed on behalf of the Secretary of State in Council by or by order of the Governor General in Council, Governor in Council, Lieutenant Governor of the North-Western Provinces or other officer intrusted as aforesaid, but may be executed in other respects in like manner as other instruments executed by or on behalf of him or them respectively in his or their official capacity, and may be enforced by or against the Secretary of State in Council for the time being;

Secretary of
State, etc., not
to be per-
sonally
liable.

and neither the Secretary of State nor any member of the Council nor any person executing such deed, contract, or other instrument, shall be personally liable in respect thereof; and all liabilities, costs, and damages

¹ The provisions of this Statute cannot be affected by legislation in India—see 24 & 25 Vict., c. 67, s. 22. For digest and notes, see *Libert's Government of India*, pp. 313-314.

(Secs. 3-5.)

in respect thereof shall be satisfied and paid out of the revenues of India.

3. Notwithstanding anything contained in the said Act, it shall be lawful for the Governor and Company of the Bank of England to pay out all or any of the moneys paid to the credit of the account opened under the said Act by the Governor and Company of the Bank of England intituled "The Account of the Secretary of State in Council of India," upon any drafts or orders signed by the Accountant General on the establishment of the Secretary of State in Council, or by either of the two senior clerks in the department of the said Accountant General, and countersigned in such manner as the Secretary of State for India in Council shall from time to time order or establish;

Mode of signing drafts or orders on Bank of England.

and any draft or order signed and countersigned as aforesaid or in manner directed by the said Act shall effectually discharge the Bank of England for all moneys paid upon the same.

4. If before the passing of this Act any contracts or assurances shall have been entered into or made on behalf of the Secretary of State in Council, or the Government of India, by any person in India who, previously to the commencement of the said Act, would have been authorized to enter into and make the same on behalf of the East India Company, such contracts or assurances shall have the same validity in favour of and against the Secretary of State in Council, as they would have had in favour of and against the said Company if made on behalf of the said Company, and if the said Act had not been passed;

Validity of contracts, etc., entered into before the passing of this Act.

but neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contracts or assurances; and all liabilities, costs, and damages in respect thereof shall be satisfied and paid out of the revenues of India.

5. All contracts purporting to be entered into by the Secretary of State in Council which shall have been previous to the passing of this Act made under the hands and seals or hands of three or more members of Council shall be as valid and effectual, to all intents and purposes whatsoever, as the same would have been if section forty of the said Act had contained an express provision that the contracts to be entered into by the Secretary of State in Council pursuant to that Act might be so made;

Mode of executing contracts.

and from and after the passing of this Act all contracts in writing entered into by the Secretary of State in Council with the concurrence of a majority of votes at a meeting, may be expressed to be made by the Secretary of State in Council under that designation, and, if such as, if made between private persons, would be by law required to be under seal, may be made, varied, or discharged under the hands and seals of two members of the Council, or, if such

326 *The Government of India Act, 1859. (Sec. 6.)* [22 & 23 Vict., c. 41.]

The British Law Ascertainment Act, 1859. (Sec. 1.) [22 & 23 Vict., c. 63.]

as, if made between private persons, would be by law required to be signed by the parties to be charged therewith, may be made, varied, or discharged under the hands of two members of the Council;

and the benefit and liability of such contracts shall pass to the Secretary of State in Council for the time being.

Actions to be carried on in name of Secretary of State for India in Council.

6. All actions, suits and proceedings in any court of justice in respect of any of the matters aforesaid shall and may be carried on, prosecuted, or defended in the name of the Secretary of State for India in Council.

THE BRITISH LAW ASCERTAINMENT ACT, 1859.¹

(22 & 23 Vict., c. 63.)

An Act to afford Facilities for the more certain Ascertainment of the Law administered in one Part of Her Majesty's Dominions when pleaded in the Courts of another Part thereof.

[13th August, 1859.]

[Preamble.]

Courts in one part of Her Majesty's dominions may remit a case for the opinion in law of a court in any other part thereof.

1. If in any action depending in any court within Her Majesty's dominions it shall be the opinion of such court that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's dominions on any point on which the law of such other part of Her Majesty's dominions is different from that in which the court is situate, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts, as these may be ascertained by verdict of a jury or other mode competent or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing;

and upon such case being approved of by such court or a judge thereof they shall settle the questions of law arising out of the same on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to the court in such other part of Her Majesty's dominions, being one of the superior courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act;

and it shall be competent to any of the parties to the action to present a petition to the court whose opinion is to be obtained, praying such last-mentioned court to hear parties or their counsel and to pronounce their opinion

¹ See *Chitty's Statutes*, Tit. Evidence, p. 30; also *Taylor on Evidence*, Ed. 9, § 5.

(Secs. 2-5.)

thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel;

and the court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the court;

and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper.

2. Upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required, and shall be deemed and held to contain a correct record of such opinion.

Certified copies of opinion to be given.

3. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with an officer of the court in which the action may be depending, who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case herein-before specified;

Opinion to be applied by the court making the remit, etc.

and the said court shall thereupon apply such opinion to such facts, in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury;

or the said last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence, or conclusive evidence, as the court may think fit, of the foreign law therein stated, and the said opinion shall be so submitted to the jury.

4. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords the opinion pronounced as aforesaid by any court whose judgments are reviewable by Her Majesty in Council or by the House of Lords;

Her Majesty in Council or House of Lords on appeal may adopt or reject opinion.

and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively reviewable by them, as the same shall appear to them as to be well founded or not in law.

5. In the construction of this Act, the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical;

Interpretation of terms.

and the words "Superior Courts" shall include,

in England, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls or any Vice-Chancellor, the

Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate;

in Scotland, the High Court of Justiciary, and the Court of Session acting by either of its divisions;

in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls and the Judge of the Admiralty Court;

and in any other part of Her Majesty's dominions the Superior Courts of Law or Equity therein.

THE INDIAN SECURITIES ACT, 1860.¹

(23 & 24 Vict., c. 5.)

*An Act to regulate Probate and Administration with respect to certain Indian Government Securities; * * * * and to extend the Operation of the Act of the Twenty-second and Twenty-third Years of Victoria, Chapter Thirty-nine, to Indian Bonds.*

[23rd March, 1860.]

[*Preamble recites 5 & 6 Will. 4, c. 64, s. 5; 21 & 22 Vict., c. 106, s. 67; 22 & 23 Vict., c. 39.*]

Indian Government notes on which interest is payable in London, etc., to be deemed *bonâ notabilia* in England, etc.

1. All Indian Government promissory notes and certificates issued or stock created in lieu thereof, being assets of a deceased person, the interest whereon or in respect of which shall be payable in London by drafts payable in India, and which at the decease of the owner thereof shall have been registered in the books of the Secretary of State in Council, in London, or in the books of the Governor and Company of the Bank of England, or shall have been entered in India for the purpose of being so registered before the decease of the owner thereof, and all Indian Government promissory notes issued with coupons attached, which, under such regulations and conditions as may be determined from time to time by the Secretary of State in Council, shall be so registered, and all certificates issued or stock created in lieu thereof, shall be deemed and taken to be personal estate and *bonâ notabilia* of such deceased person in England;

and probate or letters of administration in England, or confirmation granted in Scotland, and sealed with the seal of the principal Court of Probate in England, in pursuance of the provisions of the "Confirmation and Probate Act, 1858," shall be valid and sufficient to constitute the persons therein named the legal personal representatives of the deceased with respect to such notes and moneys as aforesaid.

2. [*Repeal of 5 & 6 Will. 4, c. 64, s. 5, as to stamp duty on transfers.*]

Transfers of territorial debt, etc. not

No transfer of any part of the said territorial debt or of Indian Government loans registered and transferable in the books of the Secretary of State

¹ See *Chitty's Statutes*, Tit. Death Duties, p. 88.

(Secs. 1-2.)

in Council in London, or in the books of the * * * * Bank of chargeable with stamp duty.
England shall be chargeable with any stamp duty.

3. Upon or for the repayment of any principal money secured by the said bonds, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes authorized by the said recited Act passed in the session holden in the twenty-second and twenty-third years of Her present Majesty, chapter thirty-nine, all or any part of the principal money so repaid or to be repaid, and so, from time to time as all or any part of the principal money secured by the said bonds may have been repaid or require to be repaid; but the amount to be charged upon the revenues of India shall not in any case exceed the principal money repaid or required to be repaid;

and the provisions of the said recited Act with reference to the creation of the capital stock and annuities created under the authority of the said Act, and with reference to the issue, payment, and transfer of the capital stock, annuities, bonds, and debentures issued under the authority of the said Act, shall be held to be in force and to apply to the creation, issue, payment and transfer of the capital stock, annuities, bonds, and debentures created and issued under the authority of this Act.

THE ADMIRALTY JURISDICTION (INDIA) ACT, 1860.

(23 & 24 Vict., c. 88.)

An Act to extend certain Provisions for Admiralty Jurisdiction in the Colonies to Her Majesty's Territories in India.

[13th August, 1860.]

[Preamble recites 12 & 13 Vict., c. 96, s. 5.]

1. * * * * for the purposes of the said Act the word "colony" therein shall include and apply to every part and place heretofore under the government of the East India Company, or which may be under the government of Her Majesty in India, and all the provisions of the said Act shall be construed and take effect accordingly.

2. Provided always that where any person within any place in India is charged with the commission of any offence in respect of which jurisdiction is given by the said Act, or where any person charged with the commission of any such offence is brought for trial under the said Act to any place in India, if at any time before his trial he make it appear to the court exercising criminal jurisdiction in the place where he is so charged or brought for trial, that in case the offence charged had been committed in such place he could have been tried only in the Supreme Court of one of the three Presidencies in India, and

Power to raise money under 22 & 23 Vict., c. 89, extended to borrowing for repayment of East India bonds.

The word "colony" in the recited Act to include India.

Proceedings in case of persons entitled to be tried by the Supreme Court of Presidency.

claim to be tried by such a Supreme Court accordingly, the said court exercising criminal jurisdiction as aforesaid shall certify the fact and claim to the governor of such place or chief local authority thereof ;

and such governor or chief local authority thereupon shall order and cause the person charged to be sent in custody to such one of the Presidencies as such governor shall think fit for trial before the Supreme Court of such Presidency ;

and the said Supreme Court and all public officers and other persons in the Presidency shall have the same jurisdiction and authorities and proceed in the same manner in relation to the person charged with such offence as if the same had been committed or originally charged to have been committed within the limits of the ordinary jurisdiction of such Supreme Court.

THE SUPERANNUATION ACT, 1860.

(23 & 24 Vict., c. 89.)

An Act to extend in certain cases the provisions of the Superannuation Act, 1859.

[13th August, 1860.]

[Preamble.]

Pension of
person trans-
ferred from
or to India
Office.

1. Whenever any person shall have been transferred from any situation or employment in the permanent Civil Service entitling him to superannuation allowance under the Superannuation Act, 1859, to any situation or employment in the office of the Secretary of State for India entitling him to superannuation allowance under section eighteen of the Government of India Act, 1858, or whenever any person shall have been transferred from any such last-mentioned to any such first-mentioned situation or employment, such person shall be entitled to superannuation allowance calculated on his whole service according to the provisions of the Superannuation Act aforesaid ;

and such allowance shall be paid out of the revenues of India and out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, or out of monies voted by Parliament in such portions respectively as shall have been earned by such person in the respective services aforesaid.

THE EUROPEAN FORCES (INDIA) ACT, 1860.

(23 & 24 Vict., c. 100.)

An Act to repeal so much of the Act of the twenty-second and twenty-third Victoria, Chapter Twenty-seven, and of certain other Acts, as authorizes the Secretary of State in Council to give directions for raising European forces for the Indian Army of Her Majesty.

[20th August, 1860.]

WHEREAS it is not expedient that a separate European force should be continued for the local service of Her Majesty in India ;

1. So much of the Act of Parliament of the twenty-second and twenty-third of Her Majesty, chapter twenty-seven, intituled "An Act to repeal the thirty-first section of sixteen and seventeen Victoria, chapter ninety-five, and to alter the limit of the number of European troops to be maintained for local service in India," and of any former Act or Acts of Parliament, as renders it lawful for the Secretary of State in Council from time to time to give such directions as he may think fit for raising such number of European forces as he may judge necessary for the Indian Army of Her Majesty, is hereby repealed:

Repeal of
22 & 23 Vict.,
c. 27, etc. in
part.

Provided always that the same or equal provision for the sons of persons who have served in India, and the advantages as to pay, pensions, allowances, privileges, promotion, and otherwise secured to the military forces of the East India Company by the Act of the twenty-first and twenty-second years of the Queen, chapter one hundred and six, sections thirty-five, fifty-six, and fifty-eight, respectively, shall be maintained in any plan for the reorganization of the Indian Army, anything in this Act contained notwithstanding.

Provision for
sons of per-
sons who
have served
in India and
advantages
as to pay,
etc. to be
maintained.

THE EAST INDIA STOCK ACT, 1860.

(23 & 24 Vict., c. 102.)

An Act to provide for the Management of East India Stock and of the Debts and Obligations of the Government of India, at and by the Bank of England.

[20th August, 1860.]

[Preamble.]

1 to 5. [Rep. as to U. R. 38 & 39 Vict., c. 66 (S. L. R.). Omitted as being inapplicable to India.]

6. The Secretary of State for India in Council shall be and he is hereby authorized from time to time to make such arrangements with the Governor and Company of the Bank of England as shall be deemed expedient for the payment at the Bank of England of the debts and obligations contracted by or on behalf of the East India Company and by or on behalf of the Secretary of State for India in Council, both in India and Great Britain, and of the interest to accrue thereon, and for the creation and registration and for the transfer of, and the payment of interest on, any stock into which any such obligations may be convertible, and for the appointment of one or more person or persons for the purpose of drawing bills, on behalf of the Secretary of State in Council of India, upon the Governor General, and the Governors of the several Presidencies of India respectively, and otherwise in relation to the management of such debts and obligations.

Secretary of
State for
India in
Council to
make such
arrangements
as shall be
deemed ex-
pedient with
the Bank of
England for
payment of
the debts and
obligations of
the Govern-
ment of India,
and the inter-
est thereon,
etc.

7. It shall be lawful for the Secretary of State for India in Council from time to time to open at the Bank of England such account or accounts for the payment of current demand as he may deem expedient; such account or

Secretary of
State for
India in
Council to
open accounts

(Sec. 1.)

The East India Loan Act, 1860. (Sec. 1.) [23 & 24 Vict., c. 130.]

at Bank of
England for
payment by
current
demands.

accounts to be kept in such name or names, and drawn upon by such person or persons, and in such manner, as may from time to time be directed by the said Secretary of State in Council; which accounts shall be deemed public accounts.

THE ADMIRALTY OFFENCES (COLONIAL) ACT, 1860.

(23 & 24 Vict., c. 122.)

An Act to enable the Legislatures of Her Majesty's Possessions abroad to make Enactments similar to the enactment of the Act Ninth George the Fourth, Chapter Thirty-one, Section Eight.

[28th August, 1860.]

[Preamble recites 9 Geo. 4, c. 31, s. 8.]

Legislatures
of possessions
abroad may
legislate for
trial, etc. of
offences com-
mitted in
such posses-
sions, where
persons in-
jured die out
of the limits
thereof

1. It shall be lawful for the legislature of any of Her Majesty's possessions abroad to enact by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the sea or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession;

or such legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect.

THE EAST INDIA LOAN ACT, 1860.

(23 & 24 Vict., c. 130.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[28th August, 1860.]

[Preamble.]

Secretary of
State in
Council of
India may
raise any
sum not ex-
ceeding three
millions.

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty-one, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole

(Secs. 2-6.)

three millions; and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such mode and partly by another or others.

2. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

Issue of
bonds under
this Act.

3. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

Issue of
debentures
under this
Act.

4. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest of all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal monies and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England.

Payment of
principal and
interest on
debentures.

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest monies secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed:

Debentures to
be transfer-
able by deli-
very or deed.

Provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery.

coupons for
interest to
pass by deli-
very.

6. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per centum per annum, as the Secretary of State in Council may think fit;

Issue, etc., of
capital stock
and annuities.

and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council;

and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock;

and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

(S^{ecs.} 7-11.)

Transfer
books of such
capital stock
and annuities
to be kept.

7. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses;

and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof;

and no other mode of assigning or transferring the said capital stock or the said annuities or any part thereof respectively, or any interest therein respectively, shall be good and available in law;

and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Annuities
under this
Act to be
deemed per-
sonal estate.

8. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise.

The whole
amount
charged on
the revenues
of India
under this
Act not to
exceed three
millions, etc.

9. The whole amount of the principal monies to be charged on the revenues of India under this Act shall not exceed three millions, and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty-one, or if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal monies previously secured under this Act as herein-after provided.

Power to
raise money
for repayment
of principal.

10. Upon or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid.

Bonds, etc. to
be charged on
the revenues
of India.

11. All bonds and debentures to be issued under this Act, and the principal monies and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under

this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

12. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

5 & 6 Will. 4, c. 64, s. 4, as to composition for stamp duties to apply to bonds and debentures under this Act.

13. [Rep. 55 & 56 Vict., c. 19 (S. L. R.).]

14. [Rep. 37 & 38 Vict., c. 3, s. 15.]

15. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

Saving of existing powers of borrowing.

THE BANK OF ENGLAND ACT, 1861.

(24 & 25 Vict., c. 3.)

An Act to make further Provision respecting certain payments to and from the Bank of England, and to increase the facilities for the Transfer of Stocks and Annuities, and for other Purposes.

[22nd March, 1861.]

[Preamble.]

[Whole Act except ss. 4, 5, 9, 10, rep. 55 & 56 Vict., c. 48, s. 8. ss. 4, 5, 9 omitted as inapplicable to India.]

10. And whereas the said Governor and Company have also heretofore closed, in the manner and for the purposes herein-before mentioned, the books for transfer of certain stocks created by the Secretary of State in Council of India, under the authority of certain Acts of Parliament empowering him in that behalf, and it is desirable that the provisions herein-before contained shall extend to the said last-mentioned stocks likewise:

Be it enacted, that it shall be lawful for the said Governor and Company in like manner to close the books for the transfer of the said stocks so created by the Secretary of State in Council for India as aforesaid respectively, on any day in the month preceding that in which the dividends thereon respectively shall by law be due, and thereupon the rights of the transferor and transferee respectively to such dividends shall be the same as is herein-before pro-

Provision as to closing books for transfer of East India stocks.

vided respecting the transferor and transferee of dividends of other capital stocks transferable at the Bank of England in the like case:

Provided that the period for which such books of transfer shall be closed shall not exceed fifteen days.

THE FOREIGN LAW ASCERTAINMENT ACT, 1861.¹

(24 & 25 Vict., c. 11.)

An Act to afford Facilities for the better Ascertainment of the Law of Foreign Countries when pleaded in Courts within Her Majesty's Dominions.

[17th May, 1861.]

[Preamble recites 22 & 23 Vict., c. 63.]

Superior Courts within Her Majesty's dominions may remit a case, with queries, to a court of any foreign state with which Her Majesty may have made a convention for that purpose, for ascertaining the law of such state as to the facts in question.

1. If, in any action depending in any of the Superior Courts within Her Majesty's dominions, it shall be the opinion of such court that it is necessary or expedient, for the disposal of such action, to ascertain the law applicable to the facts of the case as administered in any foreign state or country with the Government of which Her Majesty shall have entered into such convention as aforesaid, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of jury or other mode competent, or as may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing;

and upon such case being approved of by such court or a judge thereof, such court or judge shall settle the questions of law arising out of the same on which they desire to have the opinion of another court and shall pronounce an order remitting the same together with the case to such superior court in such foreign state or country as shall be agreed upon in said convention, whose opinion is desired upon the law administered by such foreign court as applicable to the facts set forth in such case, and requesting them to pronounce their opinion on the questions submitted to them;

and upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be deemed and held to contain a correct record of such opinion.

Copy of opinion to be lodged in court in which action depends.

2. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with the officer of the court within Her Majesty's dominions in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice,

¹ See *Chitty's Statutes*, Tit. Evidence and Witnesses, p. 32; also *Taylor on Evidence*, Ed. 9, § 5

(Sec. 3.)

move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinafter specified;

and the said court shall thereupon, if it shall see fit, apply such opinion to such facts, in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury;

Court to apply opinion to the facts set forth in the case, etc.

or the said last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as conclusive evidence of the foreign law therein stated; and the said opinion shall be so submitted to the jury:

Provided always, that if after having obtained such certified copy the court shall not be satisfied that the facts had been properly understood by the foreign court to which the case was remitted, or shall on any ground whatsoever be doubtful whether the opinion so certified does correctly represent the foreign law as regards the facts to which it is to be applied, it shall be lawful for such court to remit the said case, either with or without alterations or amendments, to the same or to any other such superior court in such foreign state as aforesaid, and so from time to time as may be necessary or expedient.

Remitter of case back to foreign court.

3. If in any action depending in any court of a foreign country or state with whose Government Her Majesty shall have entered into a convention as above set forth, such court shall deem it expedient to ascertain the law applicable to the facts of the case as administered in any part of Her Majesty's dominions, and if the foreign court in which such action may depend shall remit to the court in Her Majesty's dominions whose opinion is desired a case setting forth the facts and the questions of law arising out of the same on which they desire to have the opinion of a court within Her Majesty's dominions, it shall be competent to any of the parties to the action to present a petition to such last-mentioned court, whose opinion is to be obtained, praying such court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel,

Courts in Her Majesty's dominions shall pronounce opinion on case remitted by a foreign court.

and the court to which such petition shall be presented shall consider the same, and, if they think fit, shall appoint an early day for hearing parties or their counsel on such case, and shall pronounce their opinion upon the questions of law as administered by them which are submitted to them by the foreign court;

and in order to their pronouncing such opinion they shall be entitled to the such further procedure thereupon as to them shall seem proper;

and upon such opinion being pronounced a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required.

Interpretation
of terms.

4. In the construction of this Act the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical ;

and the words "Superior Courts" shall include,

in England, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice-Chancellor, the judge of the Court of Admiralty, the judge ordinary of the Court for Divorce and Matrimonial Causes, and the judge of the Court of Probate ;

in Scotland, the High Court of Justiciary, and the Court of Session, acting by either of its divisions ;

in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls and the judge of the Admiralty Court ; and

in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein ; and

in a foreign country or state, any superior court or courts which shall be set forth in any such convention between Her Majesty and the Government of such foreign country or state.

THE EAST INDIA LOAN ACT, 1861.

(23 & 24 Vict., c. 25.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[28th June, 1861.]

[Preamble.]

Secretary of
State in
Council of
India may
raise any sum
not exceeding
four millions.

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole four millions ;

and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.¹

* * * * *

¹ The rest of this Statute is omitted as being, *mutatis mutandis*, identical with 23 & 24 Vict., c. 130. S. 14 was repealed by 37 & 38 Vict., c. 3, s. 15.

(Secs. 2-5.)

THE INDIAN CIVIL SERVICE ACT, 1861.¹

(24 & 25 Vict., c. 54.)

An Act to confirm certain Appointments in India, and to amend the Law concerning the Civil Service there.

[1st August, 1861.]

[Preamble recites 33 Geo. 3, c. 52, ss. 56, 57.]

1. [Rep. 55 & 56 Vict., c. 19 (S. L. R.).]

2. All vacancies happening in any of the offices, places, or employments specified in the schedule annexed to this Act, and all such offices which may be created hereafter, shall be filled up and supplied, except as herein-after provided, from amongst the covenanted civil servants of the Crown in India.

Vacancies in certain offices to be supplied by covenanted civil servants.

3. Where it appears to the authority in India by whom an appointment should be made to any office, place, or employment specified in the said schedule, that such appointment, under the special circumstances of the case, should be made without regard to the recited qualifications, conditions, and restrictions of the said Act, it shall be lawful for such authority to make such appointment accordingly;

Persons not covenanted civil servants may, under special circumstances, be appointed to such offices subject to certain restrictions.

Provided, that no person shall be so appointed who has not resided for at least seven years in India, and that every person previously to his being so appointed to any of the offices in the Revenue and Judicial Departments specified in the said schedule shall pass an examination in the vernacular language of the district in which he is to be employed, where such examination is now required, and shall be subject to all the departmental tests and other qualifications and restrictions which are or may be imposed in the like case on covenanted civil servants.

4. Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State in Council of India, together with the special reasons for making the same;

Such appointment in each case to be reported to the Secretary of State, etc.

and unless the Secretary of State in Council shall approve such appointment, with the concurrence of a majority of members present at a meeting, and shall within twelve months from the date of such appointment notify such approval to the authority by whom the appointment was made, then such appointment shall be cancelled.

5. All vacancies happening in any other offices, places, or employments than those mentioned in the said schedule, and all other offices than those so mentioned that may hereafter be created in India, may be filled up and supplied without regard to the qualifications, conditions and restrictions prescribed by the said Act.

Certain offices may be filled up without regard to restrictions prescribed by recited Act.

¹For digest and notes, see *Ilbert's Government of India*, p. 314.

(Secs. 6-7. Schedule.)

Act not to
apply to office
of Lieutenant
Governor, etc.

6. Provided always that this Act shall not apply to the office of Lieutenant Governor of any part of Her Majesty's dominions in India, or to any offices for the supply of which provision may be made by any other Act of the present session of Parliament.

Repeal of
33 Geo. 3,
c. 52, s. 56,
etc.

7. Section fifty-six of the said Act of the thirty-third year of King George the Third, and so much of the other sections of the said Act and of any other Act now in force as requires seniority as a condition or qualification for the appointment of civil servants to offices, places, or employments, shall be repealed.

SCHEDULE.

SECRETARIES, Junior Secretaries, and Under Secretaries to the several Governments in India, except the Secretaries, Junior Secretaries, and Under Secretaries in the Military, Marine and Public Works Departments.

Accountant General.

Civil Auditor.²

Sub-treasurer.²

Judicial.

1. Civil and session judges, or chief judicial officers of districts in the provinces now known as Regulation Provinces.
2. Additional and assistant judges in the said provinces.
3. Magistrates or chief magisterial officers of districts in the said provinces.
4. Joint magistrates in the said provinces.
5. Assistant magistrates or assistants to magistrates in the said provinces.

Revenue.

1. Members of the Board of Revenue in the Presidencies of Bengal and Madras.
2. Secretaries to the said Boards of Revenue.
3. Commissioners of Revenue or chief Revenue-officers of divisions in the provinces now known as Regulation Provinces.
4. Collectors of Revenue or chief Revenue-officers of districts in the said provinces.
5. Deputy or subordinate collectors where combined with the office of joint magistrate in the said provinces.
6. Assistant collectors or assistants to collectors in the said provinces.
7. Salt agents.
8. Controller of salt chowkies.
9. Commissioners of Customs, salt, and opium.
10. Opium agents.

¹Now called Comptroller General.

² Now non-existent.

(Secs. 1-3.)

THE INDIAN COUNCILS ACT, 1861.¹

(24 & 25 Vict., c. 67.)

An Act to make better Provision for the Constitution of the Council of the Governor General of India, and for the Local Government of the several Presidencies and Provinces of India, and for the temporary Government of India in the Event of a Vacancy in the Office of Governor General.

[1st August, 1861.]

[Preamble.]

1. This Act may be cited for all purposes as "The Indian Councils Act, 1861." Short title.

2. * * * * * all Enactment continued i
other enactments whatsoever now in force with relation to the Council of the force.
Governor General of India or to the Councils of the Governors of the respective Presidencies of Fort Saint George and Bombay shall, save so far as the same are altered by or are repugnant to this Act, continue in force and be applicable to the Council of the Governor General of India and the Council of the respective Presidencies under this Act.

3. There shall be five ordinary members of the said Council of the Governor General, three of whom shall from time to time be appointed * * * of the Council
* * * * * 3 from among such persons as shall have been, of the Governor General of India.
at the time of such appointment in the service in India of the Crown, or of the Company and the Crown, for at least ten years;

and if the person so appointed shall be in the military service of the Crown, he shall not during his continuance in office as a member of Council hold any military command, or be employed in actual military duties;

and the remaining two, one of whom shall be a barrister or a member of the Faculty of Advocates in Scotland of not less than five years' standing, shall be appointed from time to time by Her Majesty by warrant under Her Royal Sign Manual;

and it shall be lawful for the Secretary of State in Council to appoint the Commander-in-Chief of Her Majesty's Forces in India to be an extraordinary member of the said Council, and such extraordinary member of Council shall have rank and precedence at the Council Board next after the Governor General.

¹ For digest and notes, see Ilbert's *Government of India*, pp. 314-319.

² The portion omitted repealed 3 & 4 Will. 4, c. 85, ss. 40, 43, 44, 50, 66, 70, and so much of ss. 61, 64 as related to vacancies in the office of ordinary member of Council; also 16 & 17 Vict., c. 95, ss. 22-24, 26. It was repealed by 55 & 56 Vict., c. 19 (S. L. R.).

³ The words "by the Secretary of State for India in Council, with the concurrence of a majority of members present at a meeting," were repealed by 41 & 42 Vict., c. 79 (S. L. R.), and have been omitted.

(Secs. 4-6.)

Present members of Council to continue.

4. The present ordinary members of the Council of the Governor General of India shall continue to be ordinary members under and for the purposes of this Act;

Appointment of fifth member, and salaries of members, etc.

and it shall be lawful for Her Majesty, on the passing of this Act, to appoint by warrant as aforesaid an ordinary member of Council, to complete the number of five hereby established;

and there shall be paid to such ordinary member, and to all other ordinary members who may be hereafter appointed, such amount of salary as may from time to time be fixed for members of the Council of the Governor General by the Secretary of State in Council, with the concurrence of a majority of members of Council present at a meeting;

and all enactments of any Act of Parliament or law of India respecting the Council of the Governor General of India and the members thereof shall be held to apply to the said Council as constituted by this Act, except so far as they are repealed by or are repugnant to any provisions of this Act.

Provisional appointments of members of Council.

5. It shall be lawful for the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, and for Her Majesty, by warrant, as aforesaid, respectively to appoint any person provisionally to succeed to the office of ordinary member of the Council of the Governor General, when the same shall become vacant by the death or resignation of the person holding the said office, or on his departure from India with intent to return to Europe, or on any event and contingency expressed in any such provisional appointment and such appointment again to revoke;

but no person so appointed to succeed provisionally to such office shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office;

Provisions during absence of Governor General in other parts of India.

6. Whenever the said Governor General in Council shall declare that it is expedient that the said Governor General should visit any part of India unaccompanied by his Council, it shall be lawful for the said Governor General in Council, previously to the departure of the said Governor General, to nominate some member of the said Council to be president of the said Council, in whom, during the time of such visit, the powers of the said Governor General in assemblies of the said Council shall be reposed, except that of assenting to or withholding his assent from, or reserving for the signification of Her Majesty's pleasure any law or regulation, as herein-after provided;

and it shall be lawful in every such case for the said Governor General in Council, by an order for that purpose to be made, to authorize the Governor General alone to exercise all or any of the powers which might be exercised by the said Governor General in Council in every case in which the said Gover-

(Secs. 7-9.)

nor General may think it expedient to exercise the same, except the power of making laws or regulation.

7. Whenever the Governor General, or such president so nominated as aforesaid, shall be obliged to absent himself from any meeting of Council other than meetings for the purpose of making laws and regulations, (as herein-after provided,) owing to indisposition or any other cause whatsoever, and shall signify his intended absence to the Council, then and in every such case the senior member for the time being who shall be present at such meeting shall preside thereat, in such manner, and with such full powers and authorities during the time of such meeting, as such Governor General or president would have had in case he had been present at such meeting ;

Provisions in case of absence of Governor General, etc. from meeting of Council.

Provided always that no act of Council made at any such meeting shall be valid to any effect whatsoever unless the same shall be signed by such Governor General or president respectively if such Governor General or president shall at the time be resident at the place at which such meeting shall be assembled and shall not be prevented by such indisposition from signing the same.

Provided always, that in case such Governor General or president, not being so prevented as aforesaid, shall decline or refuse to sign such act of Council, he and the several members of Council who shall have signed the same, shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner and subject to such regulations and ultimate responsibility as are by the East India Company Act, 1795, sections forty-seven, forty-eight, forty-nine, fifty and fifty-one provided and described in cases where such Governor General shall, when present, dissent from any measure proposed or agitated in the Council.

33 Geo. 3, c. 52, ss. 47 to 51.

8. It shall be lawful for the Governor General from time to time to make rules and orders for the more convenient transaction of business in the said Council ;

and any order made or act done in accordance with such rules and orders (except as hereafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor General in Council.

Power of Governor General to make rules for conduct of business.

9. The said Council shall from time to time assemble at such place or places as shall be appointed by the Governor General in Council within the territories of India ;

Council where to assemble.

and as often as the said Council shall assemble within either of the Presidencies of Fort Saint George or Bombay, the Governor of such Presidency shall act as an extraordinary member of Council ;

(Secs. 10-15.)

and as often as the said Council shall assemble within any other division, province, or territory having a Lieutenant Governor, such Lieutenant Governor shall act as an additional councillor at meetings of the Council, for the purpose of making laws and regulations only, in manner herein-after provided.

Additional members to be summoned for the purpose of making laws and regulations.

10. For the better exercise of the power of making laws and regulations vested in the Governor General in Council, the Governor General shall nominate, in addition to the ordinary and extraordinary members above mentioned, and to such Lieutenant Governor in the case aforesaid, such persons, not less than six nor more than twelve in number¹ as to him may seem expedient to be members of Council for the purpose of making laws and regulations only;

and such persons shall not be entitled to sit or vote at any meeting of council, except at meetings held for such purpose:

Provided that not less than one half of the persons so nominated shall be non-official persons, that is, persons who, at the date of such nomination, shall not be in the civil or military service of the Crown in India,

and that the seat in Council of any non-official member accepting office under the Crown in India shall be vacated on such acceptance.

Such members to be appointed for two years.

11. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations, for the term of two years from the date of such nomination.

Resignation of additional members.

12. It shall be lawful for any such additional member of Council to resign his office to the Governor General; and on acceptance of such resignation by the Governor General such office shall become vacant.

13. [*Rep. 55 & 56 Vict., c. 14, s. 1.*]

No law to be invalid by reason of number of non-official members being incomplete.

14. No law or regulation made by the Governor General in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby provided was not complete at the date of its introduction to the Council or its enactment.

Senior ordinary member of Council to preside at meetings for making laws and regulations in absence of Governor General, etc.

15. In the absence of the Governor General and of the president, nominated as aforesaid, the senior ordinary member of the Council present shall preside at meetings of the Council for making laws and regulations;

and the power of making laws and regulations vested in the Governor General in Council shall be exercised only at meetings of the said Council at which such Governor General or president, or some ordinary member of Council, and six or more members of the said Council, (including under the term members of the Council, such additional members as aforesaid,) shall be present;

(Secs. 17-19.)

and in every case of difference of opinion at meetings of the said Council Quorum. for making laws and regulations, where there shall be an equality of voices, the Governor General, or in his absence the president, and in the absence of the Governor General and president such senior ordinary member of Council there presiding, shall have two votes or the casting vote.

16. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

17. It shall be lawful for the Governor General in Council from time to time to appoint all * * * ¹ times and places of meeting of the Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such president, or senior ordinary member of Council in his absence, to adjourn any meeting for the purpose of making laws and regulations from time to time and from place to place.

Power to appoint and adjourn meetings for making laws and regulations.

18. It shall be lawful for the Governor General in Council to make rules for the conduct of business at meetings of the Council for the purpose of making laws and regulations under the provisions of this Act, prior to the first of such meetings;

Rules for conduct of business at such meetings.

but such rules may be subsequently amended at meetings for the purpose of making laws or regulations, subject to the assent of the Governor General;

and such rules shall prescribe the mode of promulgation and authentication of such laws and regulations:

Provided always, that it shall be lawful for the Secretary of State in Council to disallow any such rule, and to render it of no effect.

19. No business shall be transacted at any meeting for the purpose of making laws and regulations, except as last herein-before provided, other than the consideration and enactment of measures introduced into the Council for the purpose of such enactment;

business to be transacted at such meetings.

and it shall not be lawful for any member or additional member to make or for the Council to entertain any motion, unless such motion be for leave to introduce some measure as aforesaid into Council or have reference to some measure actually introduced thereinto:

Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor General, any measure affecting,—

1st. the public debt or public revenues of India, or by which any charge would be imposed on such revenues:

2nd. the religion or religious rights and usages of any class of Her Majesty's subjects in India:

¹ The word "other" was repealed by 55 & 56 Vict., c. 19 (S. L. R.), and has been omitted.

(Secs. 20-22.)

3rd. the discipline or maintenance of any part of Her Majesty's Military or Naval Forces:

4th. the relations of the Government with foreign princes or states.

Assent of Governor General to laws and regulations made at such meetings.

20. When any law or regulation has been made by the Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor General, whether he shall or shall not have been present in Council at the making thereof, to declare that he assents to the same, or that he withholds his assent from the same, or that he reserves the same for the signification of the pleasure of Her Majesty thereon;

and no such law or regulation shall have validity until the Governor General shall have declared his assent to the same, or until (in the case of a law or regulation so reserved as aforesaid) Her Majesty shall have signified her assent to the same to the Governor General, through the Secretary of State for India in Council, and such assent shall have been duly proclaimed by the said Governor General.

Power of the Crown to disallow laws and regulations made at such meetings.

21. Whenever any such law or regulation has been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic copy thereof;

and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such law;

and such disallowance shall make void and annul such law from or after the day on which the Governor General shall make known, by proclamation or by signification to his Council, that he has received the notification of such disallowance by Her Majesty.

Extent of the powers of the Governor General in Council to make laws and regulations at such meetings.

22. The Governor General in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions herein contained, to make laws and regulations for repealing, amending, or altering any laws or regulations whatever now in force or hereafter to be in force in the Indian territories now [or hereafter]¹ under the dominion of Her Majesty, and to make laws and regulations for all persons, whether British or native, foreigners or others, and for all courts of justice whatever, and for all places and things whatever within the said territories, and for all servants of the Government of India within the dominions of princes and states in alliance with Her Majesty²;

and the laws and regulations so to be made by the Governor General in Council shall control and supersede any laws and regulations in anywise repugnant thereto which shall have been made prior thereto by the Governors of the Presidencies of Fort St. George and Bombay respectively in Council, of

¹ Words in brackets inserted by 55 & 56 Vict., c. 14, s. 3.

² See also 28 Vict., c. 17, s. 1, and 32 & 33 Vict., c. 98, ss. 1, 2.

(Sec. 23.)

the Governor or Lieutenant Governor in Council of any presidency or other territory for which a Council may be appointed, with power to make laws and regulations under and by virtue of this Act:

Provided always, that the said Governor General in Council shall not have the power of making any laws or regulations which shall repeal or in any way affect any of the provisions of this Act:

or any of the provisions of the Government of India Act, 1833, and of the Government of India Act, 1853, and of the Government of India Act, 1854, which after the passing of this Act shall remain in force:

or any provisions of the Government of India Act, 1858, or of the Government of India Act, 1859:

or of any Act enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India:

or of the Acts for punishing mutiny and desertion in Her Majesty's Army or in Her Majesty's Indian Forces respectively; but subject to the provision contained in the Government of India Act, 1833, section seventy-three, respecting the Indian articles of war:

or any provisions of any Act,¹ passed in this present session of Parliament, or hereafter to be passed, in anywise affecting Her Majesty's Indian territories, or the inhabitants thereof:

or which may affect the authority of Parliament, or the constitution and rights of the East India Company,² or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the Crown over any part of the said territories.

23. Notwithstanding anything in this Act contained, it shall be lawful for the Governor General, in cases of emergency, to make and promulgate from time to time ordinances for the peace and good government of the said territories or of any part thereof, subject however to the restrictions contained in the last preceding section;

and every such ordinance shall have like force of law with a law or regulation made by the Governor General in Council as by this Act provided, for the space of not more than six months from its promulgation, unless the disallowance of such ordinance by Her Majesty shall be earlier signified to the Governor General by the Secretary of State for India in Council, or unless such ordinance shall be controlled or superseded by some law or regulation

Governor General may make ordinances having force of law in cases of urgent necessity.

¹ See *Queen v. Meares*, 14 Beng. 106, 112.

² The East India Company was not dissolved till 1874.

(Secs. 24-27.)

made by the Governor General in Council at a meeting for the purpose of making laws and regulations as by this Act provided.

No law, etc.
invalid by
reason of its
affecting the
prerogative of
the Crown.

24. No law or regulation made by the Governor General in Council (subject to the power of disallowance by the Crown, as herein-before provided,) shall be deemed invalid by reason only that it affects the prerogative of the Crown.

25. Whereas doubts have been entertained whether the Governor General of India, or the Governor General of India in Council, had the power of making rules, laws and regulations for the territories known from time to time as "Non-Regulation Provinces," except at meetings for making laws and regulations in conformity with the provisions of the Government of India Act, 1833, and of the Government of India Act, 1853, and whether the Governor, or Governor in Council, or Lieutenant Governor of any presidency or part of India, had such power in respect of any such territories:

Laws made
for the non-
regulation
provinces
declared valid.

Be it enacted, that no rule, law or regulation, which prior to the passing of this Act shall have been made by the Governor General, or Governor General in Council, or by any other of the authorities aforesaid, for and in respect of any such non-regulation province, shall be deemed invalid only by reason of the same not having been made in conformity with the provisions of the said Acts, or of any other Act of Parliament respecting the constitution and powers of the Council of India or of the Governor General, or respecting the powers of such Governors, or Governors in Council, or Lieutenant Governors as aforesaid.

Provision for
leave of
absence to an
ordinary
member of
Council.

26. It shall be lawful for the Governor General in Council, or Governor in Council of either of the Presidencies, as the case may be, to grant to an ordinary member of Council leave of absence, under medical certificate, for a period not exceeding six months;

and such member, during his absence, shall retain his office, and shall, on his return and resumption of his duties, receive half his salary for the period of such absence;

but if his absence shall exceed six months, his office shall be vacated.

Power of
making
temporary
appointments
of members of
Council, etc.

27. If any vacancy shall happen in the office of an ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, when no person provisionally appointed to succeed thereto shall be then present on the spot, then, and on every such occasion, such vacancy shall be supplied by the appointment of the Governor General in Council, or the Governor in Council, as the case may be;

¹ See 3 & 4 Wm. IV, c. 85, s. 77, *supra*, p. 175.

(Secs. 28-29.)

and until a successor shall arrive the person so nominated shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office during his continuance therein, every such temporary member of Council foregoing all salaries and allowances by him held and enjoyed at the time of his being appointed to such office;

and if any ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies shall, by any infirmity or other wise, be rendered incapable of acting or of attending to act as such, or if any such member shall be absent on leave, and if any person shall have been provisionally appointed as aforesaid, then the place of such member absent or unable to attend shall be supplied by such person;

and if no person provisionally appointed to succeed to the office shall be then on the spot, the Governor General in Council, or Governor in Council, as the case may be, shall appoint some person to be a temporary member of Council;

and, until the return of the member so absent or unable to attend, the person so provisionally appointed by the Secretary of State in Council or so appointed by the Governor General in Council, or Governor in Council, as the case may be, shall execute the office to which he shall have been appointed and shall have all the powers thereof, and shall receive half the salary of the member of Council whose place he supplies and also half the salary of his office under the Government of India, or the Government of either of the Presidencies, as the case may be, if he hold any such office, the remaining half of such last named salary being at the disposal of the Government of India or other Government as aforesaid:

Provided always, that no person shall be appointed a temporary member of the said Council who might not have been appointed as herein-before provided to fill the vacancy supplied by such temporary appointment.

28. It shall be lawful for the Governors of the Presidencies of Fort Saint George and Bombay respectively from time to time to make rules and orders for the conduct of business in their Councils, and any order made or act done in accordance with such directions (except as herein-after provided respecting laws and regulations) shall be deemed to be the order or act of the Governor in Council.

Governors of Fort Saint George and Bombay may make rules for the conduct of business in their Councils.

29. For the better exercise of the power of making laws and regulations herein-after vested in the Governors of the said presidencies in Council respectively, each of the said Governors shall, in addition to the members whereof his Council now by law consists, or may consist, termed herein ordinary members, nominate to be additional members the Advocate General of the Pre-

Power to summon additional members to the Councils of Fort Saint George and Bombay for

the purpose
of making
laws and
regulations.

sidency, or officer acting in that capacity, and such other persons, not less than four nor more than eight in number,¹ as to him may seem expedient, to be members of Council, for the purpose of making laws and regulations only;

and such members shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose;

Provided, that not less than half of the persons so nominated shall be non-official persons, as herein-before described;

and that the seat in Council of any non-official member accepting office under the Crown in India shall be vacated on such acceptance.

Such members
to be appoint-
ed for two
years.

30. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations for the term of two years from the date of such nomination.

Resignation
of additional
members.

31. It shall be lawful for any such additional member of Council to resign his office to the Governor of the Presidency;

and on acceptance of such resignation by the Governor of the Presidency such office shall become vacant.

32. [*Rep. 55 & 56 Vict., c. 14, s. 4.*]

No law to be
invalid by
reason of
incompleteness
of number of
non-official
members.

33. No law or regulation made by any such Governor in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby established was not complete at the date of its introduction to the Council or its enactment.

Senior civil
ordinary mem-
ber of Council
to preside in
absence of
Governor of
Presidency.

34. At any meeting of the Council of either of the said Presidencies from which the Governor shall be absent, the senior civil ordinary member of Council present shall preside; and the power of making laws and regulations hereby vested in such Governor in Council shall be exercised only at meetings of such Council at which the Governor or some ordinary member of Council and four or more members of Council (including under the term members of Council such additional members as aforesaid), shall be present;

and in any case of difference of opinion at meetings of any such Council for making laws and regulations where there shall be an equality of voices, the Governor, or in his absence the senior member then presiding, shall have two votes or the casting vote.

35. [*Rep. 55 & 56 Vict., c. 19 (S. L. R.).*]

Governors of
Presidencies
to appoint

36. It shall be lawful for every such Governor to appoint all * * * times and places of meeting of his Council for the purpose of making laws and

¹ Not less than eight nor more than twenty besides the Advocate General or officer acting in that capacity—*see* 55 & 56 Vict., c. 14, s. 1.

² The word "subsequent" was repealed by 55 & 56 Vict., c. 19 (S. L. R.), and has been omitted.

(Secs. 37-40.)

regulations under the provisions of this Act, and to adjourn or from time to time to authorize such senior ordinary member of Council in his absence to adjourn any meeting for making laws and regulations from time to time and from place to place.

37. Previously to the first of such meetings of their Councils for the purpose of making laws and regulations under the provisions of this Act, the Governors of the said Presidencies in Council respectively shall make rules for the conduct of business at such meetings, subject to the sanction of the Governor General in Council;

Rules for
conduct of
business at
such meet-
ings.

but such rules may be subsequently amended at meetings for the purpose of making laws and regulations, subject to the assent of the Governor:

Provided always, that it shall be lawful for the Governor General in Council to disallow any such rule and render the same of no effect.

38. No business shall be transacted at any meeting of the Council of either of the said Presidencies for the purpose of making laws and regulations (except as last herein-before provided) other than the consideration and enactment of measures introduced into such Council for the purpose of such enactment;

Business to
be transacted
at such meet-
ings.

and it shall not be lawful for any member or additional member to make, or for the Council to entertain, any motion, unless such motion shall be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto:

Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor, any measure affecting the public revenues of the Presidency, or by which any charge shall be imposed on such revenues.

39. When any law or regulation has been made by any such Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor, whether he shall or shall not have been present in Council at such meeting, to declare that he assents to, or withholds his assent from, the same.

Governors to
assent to laws
and regula-
tions of Pre-
sidencies.

40. The Governor shall transmit forthwith an authentic copy of every law or regulation to which he shall have so declared his assent to the Governor General;

Governor
General to
assent to laws
and regula-
tions of Pre-
sidencies.

and no such law or regulation shall have validity until the Governor General shall have assented thereto, and such assent shall have been signified by him to and published by the Governor:

Provided always, that in every case where the Governor General shall withhold his assent from any such law or regulation, he shall signify to the Governor in writing his reason for so withholding his assent:

(Secs. 41-43.)

Power of the Crown to disallow laws and regulations of Presidencies.

41. Whenever any such law or regulation shall have been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic copy thereof;

and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such law or regulation;

and such disallowance shall make void and annul such law or regulation from or after the day on which such Governor shall make known by proclamation or by signification to the Council, that he has received the notification of such disallowance by Her Majesty.

Extent of power of Governor of Presidency in Council to make laws and regulations.

42. The Governor of each of the said Presidencies in Council shall have power, at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions herein contained, to make laws and regulations for the peace and good government of such Presidency, and for that purpose to repeal and amend any laws and regulations made prior¹ to the coming into operation of this Act by any authority in India, so far as they affect such Presidency:

Provided always, that such Governor in Council shall not have the power of making any laws or regulations which shall in any way affect any of the provisions of this Act, or of any other Act of Parliament in force or hereafter to be in force in such Presidency.

Governor of Presidency, except with sanction of Governor General, not to make or take into consideration laws or regulations for certain purposes.

43. It shall not be lawful for the Governor in Council of either of the aforesaid Presidencies, except with the sanction of the Governor General, previously communicated to him, to make regulations or take into consideration any law or regulation for any of the purposes next herein-after mentioned; that is to say,

1. affecting the public debt of India, or the customs duties, or any other tax or duty now in force and imposed by the authority of the Government of India for the general purposes of such Government:
2. regulating any of the current coin, or the issue of any bills, notes, or other paper currency:
3. regulating the conveyance of letters by the post office or messages by the electric telegraph within the Presidency:
4. altering in any way the Penal Code of India, as established by Act of the Governor General in Council, No. 42² of 1860:
5. affecting the religion or religious rites and usages of any class of Her Majesty's subjects in India:

¹ But see 55 & 56 Vict., c. 14, s. 5.

² Should be "No. 45."

(Secs. 44-45.)

6. affecting the discipline or maintenance of any part of Her Majesty's Military or Naval Forces:

7. regulating patents or copyright:

8. affecting the relations of the Government with foreign princes or states:

Provided always, that no law or provision of any law or regulation which shall have been made by any such Governor in Council and assented to by the Governor General as aforesaid, shall be deemed invalid only by reason of its relating to any of the purposes comprised in the above list.

44. The Governor General in Council, so soon as it shall appear to him expedient, shall, by proclamation, extend the provisions of this Act touching the making of laws and regulations for the peace and good government of the Presidencies of Fort Saint George and Bombay to the Bengal division of the Presidency of Fort William, and shall specify in such proclamation the period at which such provisions shall take effect, and the number of councillors whom the Lieutenant Governor of the said division may nominate for his assistance in making laws and regulations;

Governor General may establish Councils for making laws and regulations in the Presidency of Fort William in Bengal, etc.

and it shall be further lawful for the Governor General in Council, from time to time and in his discretion, by similar proclamation, to extend the same provisions to the territories known as the North-Western Provinces and the Punjab respectively.

45. Whenever such proclamation as aforesaid shall have been issued regarding the said division or territories respectively, the Lieutenant Governor thereof shall nominate, for his assistance in making laws and regulations, such number of councillors as shall be in such proclamation specified:

Constitution of such Councils.

Provided that not less than one-third of such councillors shall in every case be non-official persons, as herein-before described, and that the nomination of such councillors shall be subject to the sanction of the Governor General;

and provided further, that at any meeting of any such Council from which the Lieutenant Governor shall be absent, the member highest in official rank among those who may hold office under the Crown shall preside;

and the power of making laws and regulations shall be exercised only at meetings at which the Lieutenant Governor, or some member holding office as aforesaid and not less than one-half of the members of Council so summoned as aforesaid, shall be present;

and in any case of difference of opinion at any meetings of such Council for making laws and regulations, where there shall be an equality of voices, the Lieutenant Governor, or such member highest in official rank as aforesaid then presiding, shall have two votes or the casting vote.

(Secs. 46-49.)

Power to constitute new provinces, and appoint Lieutenant Governors.

46. It shall be lawful for the Governor General, by proclamation as aforesaid, to constitute from time to time new provinces for the purposes of this Act, to which the like provisions shall be applicable;

and further to appoint from time to time a Lieutenant Governor to any province so constituted as aforesaid, and from time to time to declare and limit the extent of the authority of such Lieutenant Governor, in like manner as is provided by the Act of the seventeenth and eighteenth years of Her Majesty, chapter seventy-seven, respecting the Lieutenant Governors of Bengal and the North-Western Provinces.

Power to alter boundaries of presidencies, etc. by proclamation.

47. It shall be lawful for the Governor General in Council, by such proclamation as aforesaid, to fix the limits of any presidency, division, province, or territory in India for the purposes of this Act, and further by proclamation to divide or alter from time to time the limits of any such presidency, division, province or territory for the said purposes:

Provided always, that any law or regulation made by the Governor or Lieutenant Governor in Council of any presidency, division, province, or territory shall continue in force in any part thereof which may be severed therefrom by any such proclamation, until superseded by law or regulation of the Governor General in Council, or of the Governor or Lieutenant Governor in Council of the presidency, division, province, or territory, to which such parts may become annexed.

Powers of newly constituted Lieutenant Governors in Council.

48. It shall be lawful for every such Lieutenant Governor in Council thus constituted to make laws for the peace and good government of his respective division, province, or territory;

and, except as otherwise herein-before specially provided, all the provisions in this Act contained respecting the nomination of additional members for the purpose of making laws and regulations for the Presidencies of Fort Saint George and Bombay, and limiting the power of the Governors in Council of Fort Saint George and Bombay for the purpose of making laws and regulations, and respecting the conduct of business in the meetings of such Councils for that purpose, and respecting the power of the Governor General to declare or withhold his assent to laws or regulations made by the Governor in Council of Fort Saint George and Bombay, and respecting the power of Her Majesty to disallow the same, shall apply to laws or regulations to be so made by any such Lieutenant Governor in Council.

Previous assent of the Crown necessary to give validity to proclamation.

49. Provided always, that no proclamation to be made by the Governor General in Council under the provisions of this Act for the purpose of constituting any Council for the presidency, division, provinces or territories herein-before named, or any other provinces, or for altering the boundaries of any

(Secs. 50-51.)

presidency, division, province, or territory, or constituting any new province for the purpose of this Act, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

50. If any vacancy shall happen in the office of Governor General of India when no provisional successor shall be in India to supply such vacancy, then and in every such case the Governor of the Presidency of Port Saint George or the Governor of the Presidency of Bombay who shall have been first appointed to the office of Governor by Her Majesty, shall hold and execute the said office of Governor General of India and Governor of the Presidency of Port William in Bengal until a successor shall arrive, or until some person in India shall be duly appointed thereto;

Provision for the supply of the office of Governor General in certain circumstances.

and every such acting Governor General shall, during the time of his continuing to act as such, have and exercise all the rights and powers of Governor General of India, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting Governor General foregoing the salary and allowances appertaining to the office of Governor to which he stands appointed;

and such office of Governor shall be supplied for the time during which such Governor shall act as Governor General, in the manner directed in section sixty-three of the Government of India Act, 1833.

51. If, on such vacancy occurring, it shall appear to the Governor, who by virtue of this Act shall hold and execute the said office of Governor General, necessary to exercise the powers thereof before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General;

If it appears to Governor necessary to exercise powers before taking his seat in Council, he may make his appointment, etc., known by proclamation

and after such proclamation, and thenceforth until he shall repair to the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations;

and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council :

Provided, that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by such Governor who shall have so assumed the said office of Governor General;

and from the date of the vacancy occurring, until such Governor shall have assumed the said office of Governor General, the provisions of section

sixty-two of the Government of India Act, 1833, shall be and the same are declared to be applicable to the case.

Nothing in this Act shall derogate from the powers of the Crown or Secretary of State for India in Council.

52. Nothing in this Act contained shall be held to derogate from or interfere with (except as herein-before expressly provided) the rights vested in Her Majesty, or the powers of the Secretary of State for India in Council, in relation to the government of Her Majesty's dominions in India under any law in force at the date of the passing of this Act; and all things which shall be done by Her Majesty or by the Secretary of State as aforesaid, in relation to such government, shall have the same force and validity as if this Act had not been passed.

Meaning of term "in Council."

53. Wherever any act or thing is by this Act required or authorized to be done by the Governor General or by the Governors of the Presidencies of Fort Saint George and Bombay in Council, it is not required that such act or thing should be done at a meeting for making laws and regulations unless where expressly provided.

54. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*¹]

THE MALICIOUS DAMAGE ACT, 1861.²

(24 & 25 Vict., c. 97.)

An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property.

[6th August, 1861.]

[*Preamble.*]

* * * * *

Setting fire to or casting away, etc. a ship.

42. Whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, * * * * * or to be imprisoned * * * * * and, if a male under the age of sixteen years, with or without whipping.

Setting fire to or casting away, etc. a ship, to prejudice the owner or underwriters.

43. Whosoever shall unlawfully and maliciously set fire to, or cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or

¹ There appears to be a mistake in this connection in the *Statutes Revised* in which 38 and 39 Vict., c. 66 (S. L. R.) is cited as the repealing enactment.

² Secs. 42, 43, 56 are the only extant provisions applicable to India, and they alone are reproduced.

upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, * * * * or to be imprisoned * * * * , and, if a male under the age of sixteen years, with or without whipping.¹

* * * * *

56. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable, and every accessory after the fact to any felony punishable under this Act shall on conviction be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement ;

Principals in the second degree and accessories.

and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this Act shall be liable to be proceeded against, indicted, and punished as a principal offender.

Abettors in misdemeanors.

* * * * *

THE INDIAN HIGH COURTS ACT, 1861.²

(24 & 25 Vict., c. 104.)

An Act for establishing High Courts of Judicature in India.

[6th August, 1861.]

[Preamble.]

1. [Rep. 55 & 56 Vict., c. 19 (S. L. R.). It authorized the establishment of High Courts in Bengal, Madras and Bombay, and the High Courts there were constituted by Letters Patent thereunder.]

2. The High Court of Judicature at Fort William in Bengal and at the Presidencies of Madras and Bombay respectively shall consist of a chief justice and as many judges, not exceeding fifteen, as Her Majesty may from time to time think fit and appoint, who shall be selected from—

Constitution of High Courts.

1st. barristers of not less than five years standing; or

2nd. members of the covenanted Civil Service of not less than ten years standing, and who shall have served as zila judges, or shall have exercised the like powers as those of a zila judge, for at least three years of that period; or

¹ See *Reg. v. Elmstone*, 5 Bom. (Crown Cases) 89, at p. 129.

For digest and notes, see *Ilbert's Government of India*, pp. 319-321.

(Secs. 4-7.)

3rd. persons who have held judicial office not inferior to that principal sadr amin or judge of a small cause court for a period of not less than five years; or

4th. persons who have been pleaders of a sadr court or High Court for a period of not less than ten years, if such pleaders of a sadr court shall have been admitted as pleaders of a High Court:

Provided, that not less than one-third of the judges of such High Courts respectively, including the chief justice, shall be barristers, and not less than one-third shall be members of the covenanted Civil Service.

3. [*Rep. 41 & 42 Vict., c. 79 (S. L. R.).*]

Tenure of
office of
judges, and
resignation.

4. All the judges of the High Courts established under this Act shall hold their offices during Her Majesty's pleasure:

Provided, that it shall be lawful for any judge of a High Court to resign such office of judge to the Governor General of India in Council, or Governor in Council of the Presidency in which such High Court is established.

Precedence of
judges of
High Courts.

5. The chief justice of any such High Court shall have rank and precedence before the other judges of the same court, * * * *; and, except as aforesaid, all the judges of each High Court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.

Salaries, etc.
of judges of
High Courts.

6. * * * * it shall be lawful for the Secretary of State in Council of India to fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage of the chief justices and judges of the several High Courts under this Act, and from time to time to alter the same:

Provided always, that such alteration shall not affect the salary of any judge appointed prior to the date thereof.

Provision for
vacancy of the
office of chief
justice or
other judge.

7. Upon the happening of a vacancy in the office of chief justice, and during any absence of a chief justice, the Governor General in Council or Governor in Council, as the case may be, shall appoint one of the judges of the same High Court to perform the duties of chief justice of the said Court until some person has been appointed by Her Majesty to the office of chief justice of the same Court, and has entered on the discharge of the duties of such office, or until the chief justice has returned from such absence;

and upon the happening of a vacancy in the office of any other judge of any such High Court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, it shall be lawful for the Governor General in Council, or Governor in Council, as the case may be,

(Secs. 9-11.)

to appoint a person, with such qualifications as are required in persons to be appointed to the High Court, to act as a judge of the said High Court;

and the person so appointed shall be authorized to sit and to perform the duties of a judge of the said Court until some person has been appointed by Her Majesty to the office of judge of the same Court, and has entered on the discharge of the duties of such office or until the absent judge has returned from such absence or until the Governor General in Council or Governor in Council as aforesaid shall see cause to cancel the appointment of such acting judge.

8. [*Abolition of the Supreme Courts at Calcutta, Madras and Bombay, of the Court of Sudder Dewanny Adawlat and Sudder Nizamut Adawlat at Calcutta, of Sudder Adawlat, Foujdary Adawlat at Madras, and of Sudder Dewanny Adawlat and Sudder Foujdary Adawlat at Bombay.*]

And the records and documents of the several courts so abolished in each Presidency shall become and be records and documents of the High Court established in the same Presidency.

9. Each of the High Courts to be established under this Act shall have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the Presidency for which it is established, as Her Majesty may by such Letters Patent as aforesaid grant and direct, subject, however, to such directions and limitations as to the exercise of original civil and criminal jurisdiction beyond the limits of the presidency towns as may be prescribed thereby;

Jurisdiction
and powers of
High Courts.

and save as by such Letters Patent may be otherwise directed and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council, the High Court to be established in each Presidency shall have and exercise all jurisdiction and every power and authority whatsoever in any manner vested in any of the courts in the same Presidency abolished under this Act at the time of the abolition of such last-mentioned courts.

10. [*Rep. 28 & 29 Vict., c. 15, s. 1.*]

11. Upon the establishment of the said High Courts in the said Presidencies respectively all provisions then in force in India of Acts of Parliament, or of any Orders of Her Majesty in Council or charters, or of any Acts of the Legislature of India, which at the time or respective times of the establishment of such High Courts are respectively applicable to the Supreme Courts¹ at Fort William in Bengal, Madras and Bombay respectively, or to the judges of

Existing
provisions
applicable to
Supreme
Courts to
apply to
High Courts.

¹ See per Peacock, C. J., 2 Beng. Full Bench Rulings, 26, 27.

(Secs. 12-15.)

those Courts shall be taken to be applicable to the said High Courts, and to the judges thereof respectively, so far as may be consistent with the provisions of this Act, and the Letters Patent to be issued in pursuance thereof and subject to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council.

Provision as to pending proceedings in abolished courts.

12. From and after the abolition of the courts abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have jurisdiction over all proceedings pending in such abolished Courts at the time of the abolition thereof ;

and such proceedings, and all previous proceedings in the said last-mentioned Courts shall be dealt with as if the same had been had in the said High Court, save that any such proceedings may be continued as nearly as circumstances permit under and according to the practice of the abolished Courts respectively.

Power to High Courts to provide for exercise of jurisdiction by single judges or division courts.

13. Subject to any laws or regulations which may be made by the Governor General in Council, the High Court established in any Presidency under this Act may by its own rules provide for the exercise by one or more judges, or by division courts constituted by two or more judges of the said High Court of the original and appellate jurisdiction vested in such Court in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Justice to determine what judges shall sit alone or in the division courts.

14. The chief justice of each High Court shall from time to time determine what judge in each case shall sit alone, and what judges of the Court, whether with or without the chief justice, shall constitute the several division courts as aforesaid.

High Courts to superintend and to frame rules of practice for subordinate courts.

15. Each of the High Courts established under this Act shall have superintendence over all courts which may be subject to its appellate jurisdiction and shall have power to call for returns and to direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction, and shall have power to make and issue general rules for regulating the practice and proceedings of such courts, and also to prescribe forms for every proceeding in the said courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts, and from time to time to alter any such rule or form or table ;

and the rules so made and the forms so framed and the tables so settled, shall be used and observed in the said Courts, provided that such general rules and forms and tables be not inconsistent with the provisions of any law in

24 & 25 Vict., c. 114.] *The Wills Act, 1861. (Sec. 1.)*

force and shall before they are issued have received the sanction, in the Presidency of Fort William of the Governor General in Council, and in Madras or Bombay of the Governor in Council of the respective Presidencies.

16. It shall be lawful for Her Majesty, if at any time hereafter Her Majesty see fit so to do, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's dominions in India not included within the limits of the local jurisdiction of another High Court, to consist of a chief justice, and of such number of other judges, with such qualifications as are required in persons to be appointed to the High Courts established at the Presidencies herein-before mentioned, as Her Majesty from time to time may think fit and appoint;

Her Majesty may establish a High Court in and for any portion of the territories within Her Majesty's dominions in India not included within the limits of the local jurisdiction of another High Court,

and it shall be lawful for Her Majesty by such Letters Patent to confer on such court any such jurisdiction, powers, and authority as under this Act is authorized to be conferred on or will become vested in the High Court to be established in any Presidency herein-before mentioned;

and, subject to the directions of such Letters Patent, all the provisions of this Act having reference to the High Court established in any such Presidency, and to the chief justice and other judges of such court, and to the Governor General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be applicable to the High Court established in the said territories, and to the chief justice and other judges thereof, and to the person administering the government of the said territories.

17. [*Rep. as to U. K. 56 & 57 Vict., c. 14 (S. L. R.) Omitted as being spent.*]

18. [*Rep. 28 & 29 Vict., c. 15, s. 2.*]

19. The word "barrister" in this Act shall be deemed to include barristers of England or Ireland, or members of the Faculty of Advocates in Scotland;

Interpretation of terms.

and the words "Governor General" and "Governor" shall comprehend the officer administering the government.

THE WILLS ACT, 1861.

(24 & 25 Vict., c. 114.)

An Act to amend the Law with respect to Wills of Personal Estate made by British Subjects.

[6th August, 1861.]

1. Every will and other testamentary instrument made out of the United Kingdom by a British subject (whatever may be the domicile of such person

Wills of personalty made by British

subjects out of the United Kingdom to be admitted, if made according to the forms required by the law of the place where made, or the law of the domicile, or domicile of origin.

at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed for the purpose of being admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be made according to the forms required either by the law of the place where the same was made, or by the law of the place where such person was domiciled when the same was made, or by the laws then in force in that part of Her Majesty's dominions where he had his domicile of origin.

Wills of personality made in the United Kingdom to be admitted, if made according to the forms required by the law of the place where made.

2. Every will and other testamentary instrument made within the United Kingdom by any British subject, (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed, and shall be admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be executed according to the forms required by the laws for the time being in force in that part of the United Kingdom where the same is made.

Change of domicile not to invalidate will.

3. No will or other testamentary instrument shall be held to be revoked or to have to become invalid, nor shall the construction thereof be altered, by reason of any subsequent change of domicile of the person making the same.

Nothing in this Act to invalidate wills of personality otherwise valid.

4. Nothing in this Act contained shall invalidate any will or other testamentary instrument as regards personal estate which would have been valid if this Act had not been passed except as such will or other testamentary instrument may be revoked or altered by any subsequent will or testamentary instrument made valid by this Act.

Application of Act.

5. This Act shall extend only to wills and other testamentary instruments made by persons who die after the passing of this Act.

THE DOMICILE ACT, 1861.

(24 & 25 Vict., c. 121.)

An Act to amend the Law in relation to the Wills and Domicile of British Subjects dying whilst resident abroad, and of Foreign Subjects dying whilst resident within Her Majesty's Dominions.

[6th August, 1861.]

[Preamble.]

On the conclusion of a convention with any foreign state, Her Majesty may by Order in Council

1. Whenever Her Majesty shall by convention with any foreign state agree that provisions to the effect of the enactments herein contained shall be applicable to the subjects of Her Majesty and of such foreign state respectively, it shall be lawful for Her Majesty by any Order in Council to direct, and it is hereby enacted, that from and after the publication of such Order in

(Sess. 2-4.)

the London Gazette no British subject resident at the time of his or her death in the foreign country named in such Order shall be deemed under any circumstances to have acquired a domicile in such country unless such British subject shall have been resident in such country for one year immediately preceding his or her decease, and shall also have made and deposited in a public office of such foreign country (such office to be named in the Order in Council) a declaration in writing of his or her intention to become domiciled in such foreign country; and every British subject dying resident in such foreign country, but without having so resided and made such declaration as aforesaid, shall be deemed for all purpose of testate or intestate succession as to moveables to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country as aforesaid.

direct that no British subject dying in such country shall be deemed to have acquired a domicile unless he shall have resided there for one year immediately preceding his death, and shall have declared his intention become domiciled; but subjects so dying shall for all purposes of testate or intestate succession retain the domicile possessed at the time of going to reside in such foreign country.

2. After any such convention as aforesaid shall have been entered into by Her Majesty with any foreign state it shall be lawful for Her Majesty by Order in Council to direct, and from and after the publication of such order in the London Gazette it shall be and is hereby enacted, that no subject of any such foreign country who at the time of his or her death shall be resident in any part of Great Britain or Ireland shall be deemed under any circumstances to have required a domicile therein, unless such foreign subject shall have been resident within Great Britain or Ireland for one year immediately preceding his or her decease, and shall also have signed, and deposited with Her Majesty's Secretary of State for the Home Department, a declaration in writing of his or her desire to become and be domiciled in England, Scotland, or Ireland, and that the law of the place of such domicile shall regulate his or her moveable succession.

Corresponding provisions as to subjects of such foreign state dying in Great Britain or Ireland.

3. This Act shall not apply to any foreigners who may have obtained letters of naturalization in any part of Her Majesty's dominions.

Exemption of foreigners naturalized.

4. Whenever a convention shall be made between Her Majesty and any foreign state, whereby Her Majesty's consuls or vice-consuls in such foreign state shall receive the same or the like powers and authorities as are hereinafter expressed, it shall be lawful for Her Majesty by Order in Council to

On the conclusion of a convention with any foreign state Her Majesty

(Secs. 1-3.)

may by order in Council direct that when subjects of such foreign state die in Her Majesty's dominions, and there shall be no persons to administer to their estates, the consul, etc. of such foreign state may administer.

direct, and from and after the publication of such Order in the London Gazette it shall be and is hereby enacted, that whenever any subject of such foreign state shall die within the dominions of Her Majesty, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, it shall be lawful for the consul, vice-consul, or consular agent of such foreign state within that part of Her Majesty's dominions where such foreign subject shall die to take possession and have the custody of the personal property of the deceased, and to apply the same in payment of his or her debts and funeral expenses and to retain the surplus for the benefit of the persons entitled thereto;

but such consul, vice-consul or consular agent shall immediately apply for and shall be entitled to obtain from the proper court letters of administration of the effects of such deceased person, limited in such manner and for such time as to such court shall seem fit.

THE INDIA STOCK TRANSFER ACT, 1862.

(25 & 26 Vict., c. 7.)

An Act to provide for the Registration and Transfer of India Stocks at the Bank of Ireland, and for the mutual Transfer of such Stocks from and to the Banks of England and Ireland respectively.

[11th April, 1862.]

[Preamble recites 23 & 24 Vict., c. 102.]

Interpretation of expression "India stock."

1. In this Act the expression "India stock" means stock created or to be created for the raising of money in the United Kingdom on the credit of the revenues of India, but does not include the stock commonly known by the name of East India Stock.

Power to transfer India stock from the books of the Bank of England to the books of the Bank of Ireland.

2. * * * * it shall and may be lawful for any person or persons holding any India stock transferable at the Bank of England, upon making application in the manner hereinafter provided, to transfer or cause to be transferred such stock, for the purpose of having the same amount of stock of the same denomination written into the books of the Bank of Ireland, and to be transferable at such Bank; and the dividends on the stock so transferred shall be payable half-yearly at the Bank of Ireland on the same days on which such dividends would have been payable at the Bank of England if the said stock had never been so transferred.

Assignments or transfers of stock so

3. The several stocks so transferred, or any share or interest therein, and the proportional dividend attached thereto respectively, shall be assignable

(Secs. 4-6.)

and transferable at the Bank of Ireland, as directed by this Act, and not otherwise ;

and there shall be kept at the Bank of Ireland within the City of Dublin a book or books wherein all assignments or transfers of any part of the several stocks and the proportional dividends attached thereto respectively shall be entered and registered ; which entries shall be conceived in proper words for that purpose, and shall be signed by the parties making such assignments or transfers, or if any such party or parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses ;

transferred to be made at the Bank of Ireland, etc.

* * * * and no other method of assigning or transferring any such stock and the dividend attached thereto, or any interest therein, at the Bank of Ireland, shall be good and available in law ;

and no stamp duties whatsoever shall be charged upon the said assignment or transfers or any of them.

4. It shall and may be lawful for any person or persons holding any India stock transferable at the Bank of Ireland, upon making application in the manner hereinafter provided, to transfer or cause to be transferred such stock, for the purpose of having the same amount of stock of the same denomination written into the books of the Bank of England and to be transferable at such Bank.

Power to transfer India stock from the books of the Bank of Ireland to the books of the Bank of England.

5. Notwithstanding anything herein-before contained to the contrary it shall not be lawful for any person to make any transfer of any stock from the Bank of England to the Bank of Ireland, or from the Bank of Ireland to the Bank of England, under the provisions of this Act, at any time within three clear days before the day on which the books shall be closed for the purpose of striking the balances of the several accounts for the purpose of calculating the half-yearly dividend, or within such other period as the Bank of England, in concurrence with the Bank of Ireland, may from time to time prescribe.

No transfer shall be made within a certain period before the closing day.

6. Any person or persons holding India stock transferable at the Bank of England or at the Bank of Ireland respectively, and desiring to transfer the same so as to make such stock transferable at the Bank of Ireland or at the Bank of England respectively, shall apply in writing, or cause application in writing to be made by some person on his, her, or their behalf, to the Bank of England or Bank of Ireland respectively at which such stock shall be transferable, for permission to transfer or cause to be transferred such stock for the purpose of having the same amount of stock of the same denomination

Application to be made to the Banks of England and Ireland for permission to transfer from the one to the other, and upon such transfers being made certifi-

(Sec. 7.)

cate to be
granted, etc.

written into the books of the Bank of Ireland or into the books of the Bank of England respectively, as the case may require;

and such application shall be according to such form as shall be established by the Bank of England, in concurrence with the Bank of Ireland, and shall be the same in all cases;

and upon such application having been made, and upon such person or persons transferring the stock or causing the same to be transferred into the name of the Accountant General of the Bank of England or Bank of Ireland respectively, at which it shall be desired that such stock shall be transferred, it shall and may be lawful for the Governor or Deputy Governor of the Bank of England or for the Governor or Deputy Governor of the Bank of Ireland, as the case may require, or for the Accountant General or Deputy Accountant General of such Governor and Company, or for the secretary or assistant secretary of such Governor and Company for the time being, and they are hereby respectively authorized and required, to grant a certificate to the person or persons making such transfer, or on whose behalf such transfer shall have been made, directed to the Bank of Ireland or the Bank of England to which it shall be desired that such stock shall be transferred;

and such certificate shall be according to such form as shall be established by the Bank of England, in concurrence with the Bank of Ireland, and shall be the same in all cases;

and such certificate shall state that the person or persons therein mentioned has or have transferred or caused to be transferred at the Bank of England or the Bank of Ireland, as the case may be, the stock therein described, to the Accountant General of the Bank of England or the Bank of Ireland as the case may be, for the purpose of having the amount of such stock written in the name or names of such person or persons into the books of the Bank of Ireland or of the Bank of England, as the case may be, and shall describe such stock, and specify the amount thereof;

and thereupon the amount of the stock comprised in such certificate shall be written off the account of the Accountant General of the Bank of England, or the account of the Accountant General of the Bank of Ireland, by an entry made in conformity with such certificate.

7. In every case where any transfer for the purposes of this Act shall be made at the Bank of England, the said Bank shall cause notice thereof to be transmitted to the Bank of Ireland on the same day on which such transfer shall be made;

Notices of
transfers to be
sent to the
Bank into
which the
stock is to
be transfer-
red.

(Secs. 8-10.)

and in like manner in every case where any transfer for the purposes of this Act shall be made at the Bank of Ireland, the Bank of Ireland shall cause notice thereof to be transmitted to the Bank of England on the same day on which such transfer shall be made.

8. A book or books shall be provided and kept by the Bank of England and the Bank of Ireland at the Bank of England and Bank of Ireland respectively, in which shall be fairly entered the names of all persons making any transfer of any stocks to the Accountant General of the said Banks respectively, under the provisions of this Act; to which book or books it shall and may be lawful for all persons making any such transfer, their respective executors, administrators, and assigns, from time to time and at all reasonable times to resort, and to inspect the same, without any fee or charge.

Books to be provided for entering transfers under this Act at the Banks of England and Ireland respectively.

9. Whenever any transfer shall be made of any stock for the purposes of this Act at the Bank of England or at the Bank of Ireland respectively, then and in every such case, upon the production of a certificate of the Governor or Deputy Governor of the Bank of England or of the Governor and Company of the Bank of Ireland at which any such transfer shall have been made, or of the Accountant General or Deputy Accountant General or of the secretary or assistant secretary of such Governor and Company respectively, granted according to the directions of this Act, the Bank of Ireland or the Bank of England respectively are hereby authorized and required to write or cause to be written into the books of such Bank of Ireland or Bank of England respectively, as the case may require, relating to stock of the same denomination, the amount of stock specified in such certificate;

On production of certificate from the Bank where the transfer is made, the Bank to which the transfer is made shall write the amount of stock into their books.

and such amount of stock shall be written accordingly, transferable under the provisions of this Act at the Bank of Ireland or Bank of England respectively, as the case shall require, and shall be payable and transferable at such Bank of England or Bank of Ireland respectively;

and every such amount of stock so written into the books of the Bank of Ireland or of the Bank of England respectively shall be entitled to interest or dividend payable at the Bank to which such transfer shall have been made, except as to stock which shall have been transferred after the closing and before the dividend shall become payable, in which case the party making the transfer shall receive the current dividend at the Bank from which such transfer shall have been made.

10. The Bank of England and the Bank of Ireland, upon making up their books preparatory to the payment of each and every half-yearly interest or dividend upon any stocks transferable under this Act, shall certify to the Secretary of State in Council of India, or to such officer or officers as the

Banks of England and Ireland to certify to the Secretary of State in Council.

(Secs. 11-12.)

oil of India
the amount of
stock written
in their books
prior to divi-
dend, and the
dividend to be
paid to them
by such
Secretary of
State.

Secretary of State in Council of India shall direct, the amounts of such stocks, which shall then be written in the books of the Bank of England or of the Bank of Ireland, and shall be transferable at such Banks respectively under the provisions of this Act.

and upon the receipt of such certificates the Secretary of State in Council of India is hereby authorized and required to pay to the Bank of England and to the Bank of Ireland, or into the Bank of England to the account of the Bank of Ireland respectively, the amount of all interest or dividends then being or becoming payable upon such amounts of stocks as are specified in such certificates respectively.

Remuneration
for services
under this Act
to be paid to
the Bank of
Ireland.

11. In addition to the amount of interest or dividend which shall from time to time be paid to the Bank of Ireland under the last provision, the Secretary of State in Council of India shall at the same time pay to the Governor and Company of the Bank of Ireland or to the account of such Governor and Company at the Bank of England, as a remuneration for their services in the execution of this Act, such sum as shall from time to time be fixed as the amount of such remuneration under any arrangement or agreement to be made between the Secretary of State in Council of India and the Bank of Ireland.

Duplicates
may be grant-
ed of certi-
ficates lost or
destroyed.

12. In case of the loss or destruction of any certificate of the Governor or Deputy Governor, Accountant General or Deputy Accountant General, secretary or assistant secretary of the Bank of England or of the Bank of Ireland respectively, granted for the purposes of this Act, it shall and may be lawful for any such Governor or Deputy Governor, Accountant General or Deputy Accountant General, secretary or assistant secretary, and they are hereby respectively authorized and empowered upon proof of such loss or destruction to their satisfaction, to grant a duplicate of such certificate;

and such duplicate shall be full and sufficient authority for the purposes of this Act, and shall stand in the place and stead of the original certificate if such original certificate shall not have been previously found and acted upon:

Provided always, that upon any loss or destruction or alleged loss or destruction of any such original certificate, and on the production of any such duplicate certificate, it shall and may be lawful for the Governor and Company of the Bank of England or the Governor and Company of the Bank of Ireland respectively, and they are hereby authorized and required, to demand and take from the party or parties tendering any such duplicate full and sufficient security to Her Majesty, her heirs and successors, to indemnify such Governor and Company against the production of or any claim which shall be made

(Secs. 13-15.)

under or by virtue of any such original certificate so lost or destroyed, or alleged to have been lost or destroyed;

and if at any time after the time when a duplicate certificate shall have been produced and acted upon under this Act the original of such certificate shall be tendered to the Bank of England or the Bank of Ireland, it shall and may be lawful for such Governor and Company, and they are hereby authorized and required, to detain such original certificate, and to cancel the same, and to transmit the same so cancelled to the Bank of England or the Bank of Ireland, as the case may be, by or on whose behalf such certificate shall have been given, and to deliver up such security as shall have been entered into touching the said original certificate to the party or parties entering into such security, or such of them as shall require the same.

13. The Bank of Ireland shall be at liberty to close their books for transfer of India stock on any day in the month prior to the days for payment of the half-yearly dividends on such stock, such day to be fixed or agreed on between the Bank of England and the Bank of Ireland:

Power to Bank of Ireland to close books for transfer.

Provided, however, that the period for which the same shall be closed shall not exceed fifteen days;

and the person or persons who on the day of such closing shall appear in the said books to be the proprietor or proprietors thereof shall be entitled to the current dividend thereon.

14. If any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting, any certificate or duplicate certificate required by this Act, or shall alter any number, figure, or word therein or shall utter or publish as true any such false, forged, counterfeited, or altered certificate, with intent to defraud the Bank of England or the Bank of Ireland, or any body politic or corporate, or any person or persons whomsoever, every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting or altering, uttering, or publishing as aforesaid, being convicted thereof in due form of law, shall be adjudged guilty of felony.

Persons forging, etc. certificates, guilty of felony.

15. No fee, reward, or gratuity whatsoever shall be demanded or taken of any of Her Majesty's subjects for receiving any such certificate or duplicate certificate, or for paying interest or dividend, or for any transfer of any sum to be made in pursuance of this Act, upon pain that any officer or person offending by taking or demanding any such fee or reward or gratuity shall for every such offence forfeit the sum of twenty pounds to the party aggrieved, with full costs of suit, to be recovered by action of debt, bill, plaint, or

No fee, etc. to be taken for receiving certificates, or paying dividends, etc. on penalty of 20l. with costs of suit.

information in any of Her Majesty's Courts of Record at Westminster or Dublin respectively.

THE HABEAS CORPUS ACT, 1852.

(25 & 26 Vict., c. 20.)

An Act respecting the Issue of Writs of Habeas Corpus out of England into Her Majesty's Possessions abroad.

[16th May, 1852.]

[Preamble.]

Writ not to issue out of England into any colony, etc. having a court with authority to grant such writ.

1. No writ of habeas corpus shall issue out of England by authority of any judge or court of justice therein, into any colony or foreign dominion of the Crown where Her Majesty has lawfully established court or courts of justice having authority to grant and issue the said writ, and to ensure the due execution thereof throughout such colony or dominion.

Saving of right of appeal to Her Majesty in Council.

2. Provided that nothing in this Act contained shall affect or interfere with any right of appeal to Her Majesty in Council now by law existing.

RED SEA AND INDIA TELEGRAPH COMPANY.

(25 & 26 Vict., c. 39.)

An Act for enabling the Commissioners of Her Majesty's Treasury to make Arrangements with the Red Sea and India Telegraph Company.

[17th July, 1852.]

WHEREAS in the year one thousand eight hundred and fifty-eight a joint stock company was incorporated under the "Joint Stock Companies Act," 1856, by the name of "The Red Sea and India Telegraph Company, Limited," for the purpose of establishing telegraphic communication between India and England by the Red Sea:

and whereas by an agreement dated the eighteenth day of November one thousand eight hundred and fifty-eight, and made between two of the commissioners of Her Majesty's Treasury of the one part, and the said Company of the other part, it was amongst other things provided, that the lords commissioners of Her Majesty's Treasury should guarantee to the Company (subject to such confirmation by Act of Parliament as therein-after mentioned) that during the period of fifty years from the fourth day of August one thousand eight-hundred and fifty-eight, the net receipts available for dividend upon each half-yearly statement of accounts, after payment of working expenses as herein-after mentioned, should be equal to interest or dividend

at the rate of four and a half per cent. per annum at the least upon the amount of the capital for the time being *bond fide* called and paid up for the purpose of the Company's undertakings, not exceeding in any case, except as therein-after mentioned, the sum of eight hundred thousand pounds, and should, if and so often as during the said period of fifty years, upon any half-yearly statement of accounts, the net receipts available for dividend, after the payment of working expenses, should not be equal to interest or dividend at the rate of two and a quarter per cent. for the half year upon the above-mentioned amount of capital, pay and make good such deficiency to the Company:

Provided always, that in the calculation of the amount to which the Company were entitled upon that guarantee, all capital paid up in the course of the current half year should be taken to be entitled to interest or dividend at the above-mentioned rate only from the time when the same was so paid up:

Provided also, that all amounts paid by the lords commissioners under the guarantee should be a charge on the Company, to be repaid out of the future surplus profits as therein-after provided:

and whereas the said Company was afterwards incorporated, and the said agreement confirmed by "the Red Sea and India Telegraph Act, 1859," and by a further Act, intituled "An Act for amending the Red Sea and India Telegraph Act, 1859," and passed in the year one thousand eight hundred and sixty-one, after reciting that doubts were entertained whether the said agreement empowered the said Commissioners to give effect to such guarantee except during such time as the line of telegraph of the Company was in working order, and that it was expedient that such doubts should be removed, it was declared that the guarantee contained in the said agreement was not intended to be and was not conditional on the line of telegraph of the Company being in working order:

and whereas the line of telegraph laid down by the said Company, here in-after referred to as the Old Company, has ceased to transmit messages:

and whereas an arrangement of which an abstract is contained in the schedule to this Act annexed has been entered into between the said commissioners, the Old Company and a new Company incorporated under the name of "The Telegraph to India Company, Limited," herein referred to as the New Company, whereby it is agreed that on the New Company complying with certain conditions required by the said commissioners (and which conditions have since been complied with), and in consideration of the New Company discharging all the debts and liabilities of the Old Company, the cables, lines, stations, concessions, and all other the real and personal property of the Old Company including things in action, should be transferred to the New Com-

(Secs. 1-3.)

pany and that in consideration of such transfer the Old Company should in exchange for the guarantee given by the said agreement receive such compensation by way of annuities, but subject to such powers of redemption, as is herein mentioned:

and whereas the foregoing arrangement cannot be carried into effect without the authority of Parliament:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Transfer of
property from
Old Company
to New.

1. From and after the passing of this Act, the cables, lines, stations, concessions, and all other the real and personal property of the Old Company, including things in action, shall vest in the New Company for all the estate and interest of the Old Company therein, and the said agreement of the eighteenth day of November one thousand eight hundred and fifty-eight, and all the covenants and conditions therein contained, shall be deemed to be at an end, but the New Company shall be bound to fulfil the agreement contained in the schedule to this Act.

List of share-
holders to be
made.

2. The books of transfer of shares in the said Old Company shall be closed immediately on the passing of this Act, and within one month from the date of the passing of this Act a list of the several persons then holding shares or stock in the capital of the said Company at the date of such closing, duly authenticated under the corporate seal and by the signature of the secretary of the said Company, shall be delivered to the Governor and Company of the Bank of England, and such list shall set forth the names, descriptions and addresses of all such persons, and the amount of the share or shares held by each respectively, and the amount which will be payable to each in respect of such shares out of the annuity of thirty-six thousand pounds herein-after referred to; and such list so authenticated shall for the purposes of this Act be binding on all persons whatsoever.

Charge upon
consolidated
fund of ter-
minable an-
nuities.

3. The Governor and Company of the Bank of England, as soon as possible after such list shall have been delivered to them, shall certify to the commissioners of Her Majesty's Treasury that such list has been so delivered to them, and the said commissioners are hereby authorized to charge and shall thereupon charge, under the authority of this Act, upon the consolidated fund of the United Kingdom, an annuity of thirty-six thousand pounds for forty-six years ending on the fourth day of August one thousand nine hundred and eight, payable in equal moieties half-yearly, the first half-yearly payment to become due on the fourth day of August one thousand eight hundred

(Secs. 4-7. Schedule.)

and sixty-two, and the last half-yearly payment on the fourth day of August one thousand nine hundred and eight; and such half-yearly payments shall be made to the said Governor and Company for and on account of the several persons in the said lists mentioned in the several and respective accounts therein set forth.

4. The proportionate parts of the said annuity as certified in such list as being due to the several persons therein named shall be inscribed in the names of the several parties in books to be provided for the purpose by the said Governor and Company, and all payments becoming due from time to time thereon shall be payable at the Bank of England to the several persons to whom such payment shall from time to time be due half-yearly, in equal moieties on the fourth day of August and fourth day of February, and the said proportionate parts shall be transferable in the books of the said Governor and Company in like manner as all other annuities of like kind chargeable on the consolidated fund of the United Kingdom, and payable by the said Governor and Company, and shall not be liable to stamp duty.

Rights of shareholders to terminable annuities.

5. Immediately after the inscription of the said annuity in the books of the said Governor and Company as aforesaid, the books of transfer, and other books of the Red Sea and India Telegraph Company relating to the shares therein, shall be delivered by the said Company into the custody of the said Governor and Company of the Bank of England to be retained by them.

Delivery of transfer books to Bank of England.

6. The Commissioners of the Treasury may at any time redeem the annuity hereby granted on payment of a capital sum which will be sufficient to purchase a Government annuity at the rate of four pounds ten shillings per annum on each one hundred pounds of the stock or capital of the said Old Company for the unexpired residue of the term.

Redemption of annuity.

7. There shall be paid out of the revenues of India to the account of Her Majesty's Exchequer at the Bank of England in respect of the charge hereby created, by two half-yearly payments on the fourth day of August and fourth day of February in each year respectively, the annual sum of eighteen thousand and twenty-seven pounds, being one-half of the amount of the before-mentioned annuity, and of the cost of management, the first of such half-yearly payments to be made on the fourth day of August one thousand eight hundred and sixty-two and the last on the fourth day of August one thousand nine hundred and eight.

Contribution of revenues of India.

SCHEDULE.

HEADS OF ARRANGEMENT REFERRED TO IN PREAMBLE OF ACT.

1. That the Old Company be divested of all further responsibility in respect to the affairs of the Red Sea and India Telegraph with a view to

(Schedule.)

transferring the entire concern to the hands of a new Company, on suitable terms and conditions.

2. That the present guarantee of $4\frac{1}{2}$ per cent. on the paid-up capital of the Old Company be converted into a Government annuity of like amount, payable at the Bank of England, as in the case of other annuities of like kind.

3. The commissioners of the Treasury shall have power to redeem the said annuity at any time on payment to the said Company of a capital sum which will be sufficient to purchase a Government annuity at the rate of $4\text{ l. } 10\text{ s.}$ per annum on each hundred pounds of the stock or capital of the Company for the unexpired residue of the term of their original contract.

As regards the New Company.

1. That the cables, land lines, instruments, stations, concessions, etc., belonging to the Old Company shall be made over to the New Company free from charge, the New Company discharging all outstanding debts and liabilities of the Old Company.

2. That the New Company shall use their best endeavours to repair and restore the whole line from Suez to Kurrachee, and to work it when completed, but shall not have possession until two-thirds of the capital is subscribed, and one-third paid up, and a suitable vessel despatched with not less than 200 miles of new cable on board.

3. That the capital of the New Company shall not be less in the first instance than 100,000*l.* with power to increase to 250,000*l.*, if required to complete the restoration of the line.

4. That the New Company shall be entitled to a clear dividend out of the profits of 25 per cent. on the money paid up by them.

5. That any surplus profits shall be applied to reimburse the commissioners of the Treasury for the payments they have made or will have to make annually by way of interest or annuity upon the capital expended by the Old Company, after which any further profits which may accrue shall be applied to the creation of a reserve fund.

6. After the restoration of the line any outlay of capital shall be subject to the approval of the commissioners of the Treasury, and the commissioners of the Treasury shall have power to disallow working expenditure as excessive or unreasonable.

7. In the event of the failure of the company to restore the line or maintain it in working order, the commissioners of the Treasury shall have power to take it into their own hands again, on repaying the capital actually expended by the New Company.

25 & 26 Vict., c. 39.] *Red Sea and India Telegraph Company. (Schedule.)* 375

25 & 26 Vict., c. 68.] *The Fine Arts Copyright Act, 1862. (Sec. 1.)*

Should the commissioners not exercise this right, the Company shall be at liberty to dispose of the property to reimburse their outlay; the balance, after defraying the actual expenditure, to be the property of the commissioners of the Treasury.

8. At the expiration of 30 years, the commissioners of the Treasury shall have the right of re-purchasing the line and property on the terms of repayment of the capital expended by the Company.

9. The failure in clause seven shall be defined to be the non-working of the line from end to end subject to a just allowance of time for restoration.

10. The account shall be audited at the Treasury half-yearly.

11. All differences between the commissioners of the Treasury and the Company shall be decided by arbitration.

THE FINE ARTS COPYRIGHT ACT, 1862.

(25 & 26 Vict., c. 68.)

An Act for amending the Law relating to Copyright in Works of the Fine Arts and for repressing the Commission of Fraud in the Production and Sale of such Works.

[29th July, 1862.]

WHEREAS by law, as now established, the authors of paintings, drawings, and photographs have no copyright in such their works ; * * * *

1. The author, being a British subject or resident within the dominions of the Crown, of every original painting, drawing, and photograph which shall be or shall have been made either in the British dominions or elsewhere, and which shall not have been sold or disposed of before the commencement of this Act, and his assigns, shall have the sole and exclusive right of copying, engraving, reproducing, and multiplying such painting or drawing, and the design thereof or such photograph, and the negative thereof, by any means and of any size, for the term of the natural life of such author and seven years after his death:—

Provided, that when any painting or drawing, or the negative of any photograph, shall for the first time after the passing of this Act be sold or disposed of, or shall be made or executed for or on behalf of any other person for a good or a valuable consideration, the person so selling or disposing of or making or executing the same shall not retain the copyright thereof, unless it be expressly reserved to him by agreement in writing, signed, at or before the time of such sale or disposition, by the vendee or assignee of such painting or drawing, or of such negative of a photograph, or by the person for or on whose behalf the same shall be so made or executed, but the copyright shall

Copyright in paintings, etc. hereafter made or sold to vest in the author for his life and for seven years after his death.

(Secs. 2-5.)

belong to the vendee or assignee of such painting or drawing, or of such negative of a photograph, or to the person for or on whose behalf the same shall have been made or executed ;

nor shall the vendee or assignee thereof be entitled to any such copyright, unless, at or before the time of such sale or disposition, an agreement in writing, signed by the person so selling or disposing of the same, or by his agent duly authorized, shall have been made to that effect.

Copyright not to prevent the representation of the same subjects in other works.

2. Nothing herein contained shall prejudice the right of any person to copy or use any work in which there shall be no copyright, or to represent any scene or object, notwithstanding that there may be copyright in some representation of such scene or object.

Copyright to be personal estate. Assignments, licences, etc. to be in writing.

3. All copyright under this Act shall be deemed personal or moveable estate, and shall be assignable at law ; and every assignment thereof, and every licence to use or copy by any means or process the design or work which shall be the subject of such copyright, shall be made by some note or memorandum in writing to be signed by the proprietor of the copyright or by his agent appointed for that purpose in writing.

Register of proprietors of copyright in paintings, drawings, and photographs to be kept at Stationers Hall by the officer appointed for the purposes of 5 & 6 Vict., c. 45.

4. There shall be kept at the hall of the Stationers Company, by the officer appointed by the said Company for the purposes of the Copyright Act, 1842, a book or books, entitled " The Register of Proprietors of Copyright in Paintings, Drawings, and Photographs," wherein shall be entered a memorandum of every copyright to which any person shall be entitled under this Act, and also of every subsequent assignment of any such copyright ;

and such memorandum shall contain a statement of the date of such agreement or assignment, and of the names of the parties thereto, and of the name and place of abode of the person in whom such copyright shall be vested by virtue thereof, and of the name and place of abode of the author of the work in which there shall be such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering shall so desire, a sketch, outline, or photograph of the said work ; and no proprietor of any such copyright shall be entitled to the benefit of this Act until such registration ;

and no action shall be sustainable nor any penalty be recoverable in respect of anything done before registration.

Certain enactments of 5 & 6 Vict., c. 45, to apply to the register to be kept under this Act.

5. The several enactments in the Copyright Act, 1842, contained, with relation to keeping the register book thereby required, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to

(Secs. 6-7.)

be copies of entries in the said book, the application to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the book or books to be kept by virtue of this Act, and to the entries and assignments of copyright and proprietorship therein under this Act, in such and the same manner as if such enactments were here expressly enacted in relation thereto ;

save and except that the forms of entry prescribed by the Copyright Act, 1842, may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only.

6. If the author of any painting, drawing, or photograph, in which there shall be subsisting copyright, after having sold or disposed of such copyright, or if any other person, not being the proprietor for the time being of copyright in any painting, drawing, or photograph, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply for sale, hire, exhibition, or distribution, or cause or procure to be repeated, copied, colorably imitated, or otherwise multiplied for sale, hire, exhibition, or distribution, any such work or the design thereof, or, knowing that any such repetition, copy, or other imitation has been unlawfully made, shall import into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute or offer for sale, hire, exhibition, or distribution, or cause or procure to be imported, sold, published, let to hire, distributed, or offered for sale, hire, exhibition or distribution, any repetition, copy, or imitation of the said work, or of the design thereof, made without such consent as aforesaid, such person for every such offence shall forfeit to the proprietor of the copyright for the time being a sum not exceeding ten pounds ;

Penalties on infringement of copyright.

and all such repetitions, copies, and imitations made without such consent as aforesaid, and all negatives of photographs made for the purpose of obtaining such copies, shall be forfeited to the proprietor of the copyright.

7. No person shall do or cause to be done any or either of the following acts ; that is to say,

Penalties on fraudulent productions and sales.

first, no person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any painting, drawing, or photograph, or the negative thereof, any name, initials, or monogram : secondly, no person shall fraudulently sell, publish, exhibit, or dispose of, or offer for sale, exhibition, or distribution, any painting, drawing, or photograph, or negative of a photograph, having thereon the name initials, or monogram of a person who did not execute or make such work

(Sec. 8.)

thirdly, no person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any copy or colourable imitation of any painting, drawing, or photograph, or negative of a photograph, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken:

fourthly, where the author or maker of any painting, drawing, or photograph, or negative of a photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the possession of such work, if any alteration shall afterwards be made therein by any other person, by addition or otherwise, no person shall be at liberty, during the life of the author or maker of such work, without his consent, to make or knowingly to sell or publish, or offer for sale, such work or any copies of such work so altered as aforesaid, or of any part thereof, as or for the unaltered works of such author or maker.

Every offender under this section shall, upon conviction, forfeit to the person aggrieved a sum not exceeding ten pounds, or not exceeding double the full price, if any, at which all such copies, engravings, imitations, or altered works shall have been sold or offered for sale;

and all such copies, engravings, imitations, or altered works shall be forfeited to the person, or the assigns or legal representatives of the person, whose name, initials, or monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid:

Provided always, that the penalties imposed by this section shall not be incurred unless the person whose name, initials, or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within twenty years next before the time when the offence may have been committed.

Recovery of
pecuniary
penalties.

8. All pecuniary penalties which shall be incurred, and all such unlawful copies, imitations, and all other effects and things as shall have been forfeited by offenders, pursuant to this Act, and pursuant to any Act for the protection of copyright engravings, may be recovered by the person herein-before and in any such Act as aforesaid empowered to recover the same respectively, and herein-after called the complainant or the complainer, as follows:

In England
and Ireland.

in England and Ireland, either by action against the party offending, or by summary proceeding before any two justices having jurisdiction where the party offending resides:

(Secs. 9-11.)

in Scotland, by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides * * * * *;

and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocacy, suspension, reduction, or otherwise.

9. In any action in any of Her Majesty's Superior Courts of Record at Westminister and in Dublin for the infringement of any such copyright as aforesaid, it shall be lawful for the Court in which such action is pending, if the Court be then sitting, or, if the Court be not sitting, then for a judge of such Court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or judge may seem fit.

10. All repetitions, copies, or imitations of paintings, drawings, or photographs, wherein or in the design whereof there shall be subsisting copyright under this Act, and all repetitions, copies, and imitations of the design of any such painting or drawing, or of the negative of any such photograph, which, contrary to the provisions of this Act, shall have been made in any foreign state, or in any part of the British dominions, are hereby absolutely prohibited to be imported into any part of the United Kingdom, except by or with the consent of the proprietor of the copyright thereof, or his agent authorized in writing;

and if the proprietor of any such copyright, or his agent, shall declare that any goods imported are repetitions, copies, or imitations of any such painting, drawing, or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers of Her Majesty's Customs.

11. If the author of any painting, drawing, or photograph, in which there shall be subsisting copyright, after having sold or otherwise disposed of such copyright, or if any other person, not being the proprietor for the time being of such copyright, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for sale, hire, exhibition, or distribution, any such work or the design thereof, or the negative of any such photograph, or shall import or cause to be imported into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition, or distribution, or can or procure to be sold, published, let to hire, exhibited, or distributed, or offered for sale hire, exhibition, or dis-

tribution, any repetition, copy, or imitation of such work, or the design thereof, or the negative of any such photograph, made without such consent as aforesaid,

then every such proprietor, in addition to the remedies hereby given for the recovery of any such penalties, and forfeiture of any such things as aforesaid, may recover damages by and in a special action on the case, to be brought against the person so offending, and may in such action recover and enforce the delivery to him of all unlawful repetitions, copies, and imitations, and negatives of photographs, or may recover damages for the retention or conversion thereof:

Provided, that nothing herein contained, nor any proceeding, conviction, or judgment, for any act hereby forbidden shall affect any remedy which any person aggrieved by such act may be entitled to either at law or in equity.

Provisions of
7 & 8 Vict.,
c. 12, to be
considered as
included in
this Act.

12.¹ This Act shall be considered as including the provisions of the International Copyright Act, 1844, in the same manner as if such provisions were part of this Act.

c. 12.

THE COLONIAL LETTERS PATENT ACT, 1863.

(26 & 27 Vict., c. 76.)

An Act to determine the Time at which Letters Patent shall take Effect in the Colonies.

[28th July, 1863.]

WHEREAS Her Majesty hath from time to time caused to be made under the Great Seal of the United Kingdom of Great Britain and Ireland divers letters patent intended to take effect within Her Majesty's colonies and possessions beyond the seas:

and whereas doubts are entertained respecting the period at which such letters patent have taken or may hereafter take effect within such colonies and possessions.

1. No such letters patent heretofore made shall (unless otherwise provided therein or by other lawful authority) be deemed to have taken or shall take effect in any such colony or possession as aforesaid until the same were or shall be publicly made known or acted upon therein:

Provided, that any act or thing heretofore done or purporting to have been done in pursuance or under authority of such letters patent shall be as

Existing
letters patent
not to take
effect in
colonies till
published or
acted on.
Acts done
under such
letters patent
valid.

¹ This section is repealed by 49 & 50 Vict., c. 33, s. 12, in so far as it incorporates any enactment repealed by that Act.

(Secs. 2-5.)

27 & 28 Vict., c. 25.] *The Naval Prize Act, 1864. (Secs. 1-2.)*

valid and effectual as if the same letters patent had taken effect at the date of the making thereof.

2. No such letters patent hereafter to be made shall (unless otherwise provided therein or by other lawful authority) take effect in any such colony or possession until the making of the same shall have been signified therein by proclamation or other public notice.

Future letters patent not to take effect in colony till publication.

3. Any such letters patent by which any person may be hereafter appointed to any office or employment within any of such colonies or possessions shall (unless otherwise provided therein or by other lawful authority) become null and void in respect of such colony unless the same shall be so signified as aforesaid within the following period; that is to say, within nine calendar months in case such colony or possession shall be to the eastward of Bengal in the East Indies or to the west of Cape Horn in South America, or in any other case within six months after the making thereof.

Appointments by letters patent to be void unless published within nine or six months.

4. [Rep. 38 & 39 Vict., c. 66 (S. L. R.).]

5.¹ This Act shall take effect in each of Her Majesty's colonies and possessions so soon as the same shall be proclaimed therein by the officer administering the government thereof.

Commencement of Act.

THE NAVAL PRIZE ACT, 1864.

(27 & 28 Vict., c. 25.)

An Act for regulating Naval Prize of War.

[23rd June, 1864.]

WHEREAS it is expedient to enact permanently with amendments such provisions concerning naval prize, and matters connected therewith, as have heretofore been usually passed at the beginning of a war:

Preliminary.

1. This Act may be cited as The Naval Prize Act, 1864.

Short title.

2. In this Act—

the term “ the Lords of the Admiralty ” means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral:

Interpretation of terms.

the term “ the High Court of Admiralty ” means the High Court of Admiralty of England:

¹ Rep. as to U. K., 56 & 57 Vict., c. 14 (S. L. R.).

(Sect. 3-5.)

the term "any of Her Majesty's ships of war" includes any of Her Majesty's vessels of war, and any hired armed ship or vessel in Her Majesty's service:

the term "officers and crew" includes flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of Her Majesty's ships of war:

the term "ship" includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat:

the term "ship papers" includes all books, passes, sea briefs, charter parties, bills of lading, cockets, letters and other documents and writings delivered up or found on board a captured ship:

the term "goods" includes all such things as are by the course of Admiralty and law of nations the subject of adjudication as prize (other than ships).

I.—PRIZE COURTS.

High Court
of Admiralty
and other
courts to be
prize courts
for purposes
of Act.

3. The High Court of Admiralty, and every court of Admiralty or of Vice-Admiralty, or other court exercising Admiralty jurisdiction in Her Majesty's dominions, for the time being authorized to take cognizance of and judicially proceed in matters of prize, shall be a prize court within the meaning of this Act.

Every such court, other than the High Court of Admiralty, is comprised in the term Vice-Admiralty prize court, when hereafter used in this Act.

High Court of Admiralty.

Jurisdiction
High Court
of Admiralty

4. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a prize court.

The High Court of Admiralty as a prize court shall have power to enforce any order or decree of a Vice-Admiralty prize court, and any order or decree of the Judicial Committee of the Privy Council in a prize appeal.

Appeal: Judicial Committee.

Appeal to
Queen in
Council, in
what cases.

5. An appeal shall lie to Her Majesty in Council from any order or decree of a prize court, as of right in case of a final decree, and in other cases with the leave of the court making the order or decree.

Every appeal shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges, and expenses) as may for the time being be directed by Order in Council and in the absence of any such Order, or so far as any such Order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting maritime causes of appeal.

(Secs. 6-12.)

6. The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such appeal, and may therein exercise all such powers as for the time being appertain to them in respect of appeals from any court of Admiralty jurisdiction and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of Appeal in prize causes. Jurisdiction of Judicial Committee in prize appeals.

7. All processes and documents required for the purposes of any such appeal shall be transmitted to and shall remain in the custody of the registrar of Her Majesty in prize appeals. Custody of processes, papers, etc.

8. In every such appeal the usual inhibition shall be extracted from the registry of Her Majesty in prize appeals within three months after the date of the order or decree appealed from, if the appeal be from the High Court of Admiralty, and within six months after that date, if it be from a Vice-Admiralty prize court. Limit of time for appeal.

The Judicial Committee may, nevertheless on sufficient cause shown, allow the inhibition to be extracted and the appeal to be prosecuted after the expiration of the respective periods aforesaid.

Vice-Admiralty Prize Courts.

9. Every Vice-Admiralty prize court shall enforce within its jurisdiction all orders and decrees of the Judicial Committee in prize appeals, and of the High Court of Admiralty in prize causes. Enforcement of orders of Judicial committee and High Court.

10. Her Majesty in Council may grant to the judge of any Vice-Admiralty prize court a salary not exceeding five hundred pounds a year, payable out of money provided by Parliament, subject to such regulations as seem meet. Salaries of Vice-Admiralty prize courts.

A judge to whom a salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of prize business transacted in his court.

An account of all such fees shall be kept by the registrar of the court, and the amount thereof shall be carried to and form part of the Consolidated Fund of the United Kingdom. Account and application of fees.

11. In accordance, as far as circumstances admit, with the principles and regulations laid down in The Superannuation Act, 1859, Her Majesty in Council may grant to the judge of any Vice-Admiralty prize court an annual or other allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament. Retiring pensions of judges, as in 22 Vict., c. 20.

12. The registrar of every Vice-Admiralty prize court shall on the first day of January and first day of July in every year, make out a return (in such Returns from Vice-Admiralty

(Secs. 14-17.)

prize courts. form as the Lords of the Admiralty from time to time direct) of all cases adjudged in the court since the last half-yearly return, and shall with all convenient speed send the same to the registrar of the High Court of Admiralty, who shall keep the same in the registry of that court and who shall, as soon as conveniently may be, send a copy of the returns of each half-year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament.

General.

13. [*Rep. 57 & 58 Vict., c. 39, s. 3 (3), which substituted another section.*]

Prohibition of
officer of
prize court
acting as
proctor, etc.
in prize
causes.

14. It shall not be lawful for any registrar, marshal, or other officer of any prize court, or for the registrar of Her Majesty in prize appeals, directly or indirectly to act or be in any manner concerned as advocate, proctor, solicitor, or agent or otherwise in any prize cause or appeal, on pain of dismissal or suspension from office, by order of the court or of the Judicial Committee (as the case may require).

Prohibition
of proctors
being con-
cerned for ad-
verse parties
in a cause.

15. It shall not be lawful for any proctor or solicitor, or person practising as a proctor or solicitor, being employed by a party in a prize cause or appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that cause or appeal, on pain of exclusion or suspension from practice in prize matters by order of the court or of the Judicial Committee (as the case may require).

II.—PROCEDURE IN PRIZE CAUSES.

Proceedings by Captors.

Custody of
ships taken as
prize.

16. Every ship taken as prize, and brought into port within the jurisdiction of a prize court, shall forthwith and without bulk broken be delivered up to the marshal of the court.

If there is no such marshal, then the ship shall be in like manner delivered up to the principal officer of customs at the port.

The ship shall remain in the custody of the marshal or of such officer subject to the orders of the court.

Bringing in
of ship papers

17. The captors shall, with all practicable speed after the ship is brought into port, bring the ship papers into the registry of the court.

The officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, and saw the ship papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud, addition, subduction, or alteration, or else shall account on oath to the satisfaction of the court for the absence or altered condition of the ship papers or any of them.

(Secs. 18-24.)

Where no ship papers are delivered up or found on board the captured ship, the officer in command, or one of the chief officers of the capturing ship or some other person who was present at the capture, shall make oath to that effect.

18. As soon as the affidavit as to ship papers is filed, a monition shall issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the captured ship should not be condemned. Issue of monition.

19. The captors shall, with all practicable speed after the captured ship is brought into port, bring three or four of the principal persons belonging to the captured ship before the judge of the court or some person authorized in this behalf, by whom they shall be examined on oath on the standing interrogatories. Examinations on standing interrogatories.

The preparatory examinations on the standing interrogatories shall, if possible, be concluded within five days from the commencement thereof.

20. After the return of the monition the court shall on production of the preparatory examinations and ship papers proceed with all convenient speed either to condemn or to release the captured ship. Adjudication by court.

21. Where on production of the preparatory examinations and ship papers it appears to the court doubtful whether the captured ship is good prize or not, the court may direct further proof to be adduced either by affidavit or by examination of witnesses with or without pleadings or by production of further documents; and on such further proof being adduced the court shall with all convenient speed proceed to adjudication. Further proof.

22. The foregoing provisions as far as they relate to the custody of the ship and to examination on the standing interrogatories shall not apply to ships of war taken as prize. Custody, etc. of ships of war.

Claim.

23. At any time before final decree made in the cause, any person claiming an interest in the ship may enter in the registry of the court a claim verified on oath. Entry of claim.

Within five days after entering the claim the claimant shall give security for costs in the sum of sixty pounds; but the court shall have power to enlarge the time for giving security or to direct security to be given in a larger sum if the circumstances appear to require it. Security for costs.

Appraisement.

24. The court may if it thinks fit at any time direct that the captured ship be appraised. Power to court to

(Secs. 25-32.)

direct
appraisal.

Every appraisal shall be made by competent persons sworn to make the same according to the best of their skill and knowledge.

*Delivery on Bail.*Power to
court to
direct delivery
to claimant
on bail.

25. After appraisal the court may if it thinks fit direct that the captured ship be delivered up to the claimant on his giving security to the satisfaction of the court to pay to the captors the appraised value thereof in case of condemnation.

*Sale.*Power to
court to order
sale.

26. The court may at any time if it thinks fit, on account of the condition of the captured ship or on the application of a claimant, order that the captured ship be appraised as aforesaid (if not already appraised) and be sold.

Sale on
condemnation.

27. On or after condemnation the court may if it thinks fit order that the ship be appraised as aforesaid (if not already appraised) and be sold.

Sales, how to
be made.

28. Every sale shall be made by or under the superintendence of the marshal of the court or of the officer having the custody of the captured ship.

Payment of
proceeds of
sale, or ap-
praised value
of ship deli-
vered to
claimant on
bail, to Pay-
master Gene-
ral or official
accountant,
subject to
regulations
by Order in
Council as to
custody and
disposal.

29. The proceeds of any sale made either before or after condemnation, and after condemnation the appraised value of the captured ship in case she has been delivered up to a claimant on bail, shall be paid under an order of the court either into the Bank of England to the credit of Her Majesty's Paymaster General or into the hands of an official accountant (belonging to the commissariat or some other department) appointed for this purpose by the Commissioners of Her Majesty's Treasury or by the Lords of the Admiralty, subject in either case to such regulations as may from time to time be made, by Order in Council, as to the custody and disposal of money so paid.

*Small armed Ships.*Several small
ships may be
included in
one adjudica-
tion.

30. The captors may include in one adjudication any number, not exceeding six of armed ships, not exceeding one hundred tons each, taken within three months next before institution of proceedings.

*Goods.*Application
of foregoing
provisions to
prize goods.

31. The foregoing provisions relating to ships shall extend and apply, *mutatis mutandis*, to goods taken as prize on board ship; and the court may direct such goods to be unladen, inventoried, and warehoused.

*Monition to Captors to proceed.*Power to
court to
issue monition

32. If the captors fail to institute or to prosecute with effect proceedings for adjudication, a monition shall, on the application of a claimant, issue

(Secs. 33-36.)

against the captors returnable within six days from the service thereof, citing them to appear and proceed to adjudication;

to captors to proceed to adjudication.

and on the return thereof the court shall either forthwith proceed to adjudication, or direct further proof to be adduced as aforesaid and then proceed to adjudication.

Claim on Appeal.

33. Where any person, not an original party in the cause, intervenes on appeal, he shall enter a claim, verified on oath, and shall give security for costs.

Person intervening on appeal to enter claim and give security for costs.

III.—SPECIAL CASES OF CAPTURE.

Land Expeditions.

34. Where, in an expedition of any of Her Majesty's Naval or Naval and Military Forces against a fortress or possession on land, goods belonging to the State of the enemy or to a public trading company of the enemy exercising powers of government are taken in the fortress or possession, or a ship is taken in waters defended by or belonging to the fortress or possession, a prize court shall have jurisdiction as to the goods or ship so taken, and any goods taken on board the ship, as in case of prize.

Jurisdiction of prize court in case of capture in land expedition.

Conjunct Capture with Ally.

35. Where any ship or goods is or are taken by any of Her Majesty's Naval or Naval and Military Forces while acting in conjunction with any forces of any Her Majesty's allies, a prize court shall have jurisdiction as to the same as in case of prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's ally.

Jurisdiction of prize court in case of prize taken in expedition with ally.

Joint Capture.

36. Before condemnation a petition, on behalf of asserted joint captors shall not (except by special leave of the court) be admitted, unless and until they give security to the satisfaction of the court to contribute to the actual captors a just proportion of any costs, charges, or expenses or damages that may be incurred by or awarded against the actual captors on account of the capture and detention of the prize.

Restrictions on petitions by asserted joint captors

After condemnation, such a petition shall not (except by special leave of the court), be admitted, unless and until the asserted joint captors pay to the actual captors a just proportion of the costs, charges, and expenses incurred by the actual captors in the case, and give such security as aforesaid, and show

(Secs. 37-40.)

sufficient cause to the court why their petition was not presented before condemnation :

Provided, that nothing in the present section shall extend to the asserted interest of a flag officer claiming to share by virtue of his flag.

Offences against Law of Prize.

In case of offence by captors, prize may be reserved for Crown.

37. A prize court on proof of any offence against the law of nations, or against this Act, or any Act relating to naval discipline, or against any Order in Council or royal proclamation, or of any breach of Her Majesty's instructions relating to prize or of any act of disobedience to the orders of the Lords of the Admiralty, or to the command of a superior officer, committed by the captors in relation to any ship or goods taken as prize, or in relation to any person on board any such ship, may, on condemnation, reserve the prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of captors.

Pre-emption.

Purchase by Admiralty for public service of stores on board foreign ships carrying stores to an enemy, and brought within a port of the United Kingdom.

38. Where a ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any enemy of Her Majesty is taken and brought into a port of the United Kingdom, and the purchase for the service of Her Majesty of the stores on board the ship appears to the Lords of the Admiralty expedient without the condemnation thereof in a prize court, in that case the Lords of the Admiralty may purchase on the account or for the service of Her Majesty, all or any of the stores on board the ship; and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port.

Capture by Ship other than a Ship of War.

Prizes taken by ships other than ships of war to be droits of Admiralty.

39. Any ship or goods taken as prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in her office of Admiralty.

IV.—PRIZE SALVAGE.

Salvage to recaptors of British ship or goods from enemy.

40. Where any ship or goods belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war, the same shall be restored by decree of a prize court to the owner, on his paying as prize salvage one eighth part of the value of the prize, to be decreed and ascertained by the court, or such sum, not exceeding one eighth part of the estimated value of the prize, as may be

(Secs. 41-43.)

agreed on between the owner and the re-captors and approved by order of the court:

Provided, that where the re-capture is made under circumstances of special difficulty or danger, the prize court may, if it thinks fit, award to the re-captors as prize salvage a larger part than one eighth part, but not exceeding in any case one fourth part, of the value of the prize.

Provided also, that where a ship after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war, this provision for restitution shall not apply, and the ship shall be adjudicated on as in other cases of prize.

41. Where a ship belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is re-taken from the enemy by any of Her Majesty's ships of war, she may, with the consent of the re-captors, prosecute her voyage, and it shall not be necessary for the re-captors to proceed to adjudication till her return to a port of the United Kingdom.

Permission to re-captured ship to proceed on voyage, and post-ponement of adjudication.

The master or owner, or his agent, may, with the consent of the re-captors, unload and dispose of the goods on board the ship before adjudication.

In case the ship does not, within six months, return to a port of the United Kingdom, the re-captors may nevertheless institute proceedings against the ship or goods in the High Court of Admiralty, and the court may thereupon award prize salvage as aforesaid to the re-captors, and may enforce payment thereof, either by warrant of arrest against the ship or goods, or by monition and attachment against the owner.

Proceedings in case return of ship is delayed.

V.—PRIZE BOUNTY.

42. If, in relation to any war, Her Majesty is pleased to declare, by proclamation or Order in Council, her intention to grant prize bounty to the officers and crews of her ships of war, then such of the officers and crew of any of Her Majesty's ships of war as are actually present at the taking or destroying of any armed ship of any of Her Majesty's enemies shall be entitled to have distributed among them as prize bounty a sum calculated at the rate of five pounds for each person on board the enemy's ship at the beginning of the engagement.

Prize bounty to officers and crew present at engagement with an enemy, in case of capture or destruction of enemy's ship.

43. The number of the persons so on board the enemy's ship shall be proved in a prize court, either by the examinations on oath of the survivors of them, or of any three or more of the survivors, or, if there is no survivor, by the papers of the enemy's ship, or by the examinations on oath of three or more of the

Ascertainment of amount of prize bounty by decree of prize court.

(Secs. 44-46.)

**subject to
appeal.**

officers and crew of Her Majesty's ship, or by such other evidence as may seem to the court sufficient in the circumstances.

The court shall make a decree declaring the title of the officers and crew of Her Majesty's ship to the prize bounty, and stating the amount thereof.

The decree shall be subject to appeal as other decrees of the court.

**Payment of
prize bounty
awarded out
of money pro-
vided by
Parliament.**

44. On production of an official copy of the decree the Commissioners of Her Majesty's Treasury shall, out of money provided by Parliament, pay the amount of prize bounty decreed, in such manner as any Order in Council may from time to time direct.

VI.--MISCELLANEOUS PROVISIONS.

Ransom.

**Power for
regulating
ransom by
Order in
Council.**

45. Her Majesty in Council may from time to time in relation to any war make such Orders as may seem expedient according to circumstances for prohibiting or allowing wholly or in certain cases or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any ship or goods belonging to any of Her Majesty's subjects and taken as prize by any of Her Majesty's enemies.

**Jurisdiction
of High
Court of
Admiralty.**

Any contract or agreement entered into, and any bill, bond, or other security given for ransom of any ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a prize court (subject to appeal to the Judicial Committee of the Privy Council), and if entered into or given in contravention of any such Order in Council shall be deemed to have been entered into or given for an illegal consideration.

**Ransoming in
contravention
of Order in
Council.**

If any person ransoms or enters into any contract or agreement for ransoming any ship or goods in contravention of any such Order in Council, he shall for every such offence be liable to be proceeded against in the High Court of Admiralty, at the suit of Her Majesty in her office of Admiralty, and on conviction to be fined, in the discretion of the court, any sum not exceeding five hundred pounds.

Convoy.

**Punishment
of masters of
merchant
vessels under
convoy dis-
obeying orders
or deserting
convoy.**

46. If the master or other person having the command of any ship of any of Her Majesty's subjects under the convoy of any of Her Majesty's ships of war wilfully disobeys any lawful signal, instruction, or command of the commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty, at suit of Her Majesty in her office of Admiralty, and upon conviction to be fined, in the discre-

(Secs. 47-50.)

tion of the court, any sum not exceeding five hundred pounds, and to suffer imprisonment for such time, not exceeding one year, as the court may adjudge.

Customs Duties and Regulations.

47. All ships and goods taken as prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs may be chargeable on other ships and goods of the like description;

Prize ships and goods liable to Customs duties and forfeiture, as if imported.

and all goods brought in as prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorize the sale or delivery thereof for home use or exportation, unconditionally, or subject to such conditions and regulations as they may direct.

48. Where any ship or goods taken as prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall on arrival at such port bring to at the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding one hundred pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced;

Regulations of Customs to be observed as to prize ships and goods.

and every such ship shall be liable to such searches as other ships are liable to; and the officers of the Customs may freely go on board such ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's Treasury.

49. Goods taken as prize may be sold either for home consumption or for exportation;

Sale of prize goods. Power of Treasury to remit Customs duties in certain cases.

and if in the former case the proceeds thereof, after payment of duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the Commissioners of Her Majesty's Treasury may remit the whole or such part of the said duties as they see fit.

Perjury.

50. If any person wilfully and corruptly swears, declares, or affirms falsely in any prize cause or appeal, or in any proceeding under this Act, or in

Punishment of persons guilty of

(Secs. 51-52.)

perjury, or
subornation
of perjury.

respect of any matter required by this Act to be verified on oath, or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly.

Limitation of Actions, etc.

Actions
against per-
sons executing
Acts not to be
brought with-
out notice
etc. nor after
a certain
time.

51. Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act, for any alleged irregularity or trespass, or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding nor unless the action or proceeding is commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within six months next after the doing of such damage has ceased.

General issue.

In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence;

Tender of
amends.

and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action;

Payment into
court.

and in case no tender has been made, the defendant may, by leave of the court in which the action is brought, at any time pay into court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into the court in an ordinary action;

Costs.

and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review;

and though a verdict is given for the plaintiff in the action, he shall not have costs against the defendant, unless the judge before whom the trial is had certifies his approval of the action.

Actions
against per-
sons in Navy
or Admiralty.

Any such action or proceeding against any person in Her Majesty's Naval Service, or in the employment of the Lords of the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom.

Petitions of Right.

Jurisdiction
of High Court

52. A petition of right, under The Petitions of Right Act, 1860, may, if the suppliant thinks fit, be intituled in the High Court of Admiralty, in case

(Secs. 53-55.)

the subject matter of the petition or any material part thereof arises out of the exercise of any belligerent right on behalf of the Crown, or would be cognizable in a prize court within Her Majesty's dominions if the same were a matter in dispute between private persons.

of Admiralty on petitions of right in certain cases, as in 23 & 24 Vict., c. 34.

Any petition of right under the last-mentioned Act; whether intitled in the High Court of Admiralty or not, may be prosecuted in that court, if the Lord Chancellor thinks fit so to direct.

The provisions of this Act relative to appeal, and to the framing and approval of general orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of any such petition of right intitled or directed to be prosecuted in that court;

Appeal, and general orders regulating procedure.

and subject thereto all the provisions of The Petitions of Right Act, 1860, shall apply *mutatis mutandis* in the case of any such petition of right; and for the purposes of the present section the terms "court" and "judge" in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the judge thereof, and other terms shall have the respective meanings given to them in that Act.

23 & 24 Vict., c. 34, to apply.

Orders in Council.

53. Her Majesty in Council may from time to time make such Orders in Council as seem meet for the better execution of this Act.

Power to make Orders in Council.

54. Every Order in Council under this Act shall be published in the London Gazette, and shall be laid before both Houses of Parliament within thirty days after the making thereof if Parliament is then sitting, and if not then within thirty days after the next meeting of Parliament.

Orders in Council to be gazetted, etc.

Savings.

55. Nothing in this Act shall—

- (1) give to the officers and crew of any of Her Majesty's ships of war any right or claim in or to any ship or goods taken as prize or the proceeds thereof, it being the intent of this Act that such officers and crews shall continue to take only such interest (if any) in the proceeds of prizes as may be from time to time granted to them by the Crown; or
- (2) affect the operation of any existing treaty or convention with any foreign power; or
- (3) take away or abridge the power of the Crown to enter into any treaty or convention with any foreign power containing any stipulation that may seem meet concerning any matter to which this Act relates; or,

Saving for rights of Crown, effect of treaties, etc.

- (4) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of her Crown, or in right of her office of Admiralty, or any right or power of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the office of Lord High Admiral; or
- (5) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a prize court to take cognizance of and judicially proceed upon any capture seizure, prize, or reprisal of any ship or goods, and to hear and determine the same, and, according to the course of Admiralty and the law of nations, to adjudge and condemn any ship or goods or any other jurisdiction or authority of or exerciseable by a prize court.

56. [*Rep. as to U. K. 56 & 57 Vict., c. 14. (S. L. R.). Omitted as being spent.*]

INDIA OFFICE SITE.

(27 & 28 Vict., c. 51.)

An Act to vest the Site of the India Office in Her Majesty for the Service of the Government of India.

[25th July, 1864.]

WHEREAS under or by virtue of the powers and provisions of the Acts following, or some of them, namely, the Acts of the eighteenth and nineteenth years of Her Majesty, chapter ninety-five, the twenty-second and twenty-third years of Her Majesty, chapter nineteen, the twenty-fourth and twenty-fifth years of Her Majesty, chapters thirty-three and eighty-eight, and the twenty-fifth and twenty-sixth years of Her Majesty, chapter seventy-four (being the Acts for the extension of the public offices in Downing Street), the land described in the schedule to this Act, together with other land, has been purchased or otherwise acquired by and is now vested in the Commissioners of Her Majesty's Works and Public Buildings: And whereas the Secretary of State in Council of India has proposed to purchase the said land described in the schedule to this Act as a site for offices of his department for a sum of eighty-six thousand seven hundred and sixty-five pounds seventeen shillings and four pence, and parts of the same land were acquired by the said Commissioners of Her Majesty's Works and Public Buildings with a view to such proposed purchase and the purchase, monies for such last-mentioned parts, amounting in the whole to the sum of thirty-three thousand two hundred and

(Secs. 1-3. Schedule.)

twenty pounds seventeen shillings and seven pence, were in fact provided and paid by the Secretary of State in Council of India: And whereas it is expedient that on payment of the balance of the price aforesaid the said land described in the said schedule to this Act should be transferred to and vested in Her Majesty for the service of the Government of India, as herein-after mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. On payment by the Secretary of State in Council of India into the Bank of England to the account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland of the sum of fifty-three thousand five hundred and forty-four pounds nineteen shillings and nine pence, all the land described in the schedule to this Act shall (subject as in the same schedule is mentioned) become and remain vested in Her Majesty, her heirs and successors, for the service of the Government of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six, for all the estate and interest therein of the said Commissioners of Her Majesty's Works and Public Buildings.

On payment of 53,544l. 19s. 9d. by Secretary of State of India, the land described in schedule to become vested in Her Majesty, etc.

2. The said land, when so vested in Her Majesty, shall be and continue liable to the payment of eleven thirty-fifth parts of all the parochial rates and taxes to which the entirety of the land acquired by the said Commissioners of Her Majesty's Works and Public Buildings under or by virtue of the said Acts for the extension of the public offices is or shall be by law subject and liable.

The land, when so vested, to continue liable to the payment of a portion of rates and taxes.

3. Nothing whatever shall be built on any part of the great quadrangle delineated on the plan referred to in the said schedule to this Act, without the mutual consent of the Secretary of State in Council of India and the first Commissioner of Her Majesty's Works and Public Buildings for the time being.

Nothing to be built on the great quadrangle.

The SCHEDULE above referred to.

All the piece of land containing sixty-one thousand three hundred and forty superficial feet or thereabouts, situate in the parish of Saint Margaret in the city and liberty of Westminster in the county of Middlesex, abutting on the west on Saint James' Park, on the north partly on Saint James' Park and partly on other land acquired by the Commissioners of Her Majesty's Works and Public Buildings under the above-mentioned Acts, on the east on other land also acquired by the said Commissioners under the same Acts, and on the south on Charles Street and on a passage leading from Saint James'

(Secs. 1-3.)

Park to Charles Street as the same land is delineated and described on a plan signed by the Right Hon'ble William Francis Cowper, the first Commissioner of Her Majesty's Works and Public Buildings, and by the Right Hon'ble Sir Charles Wood, Baronet, one of Her Majesty's Principal Secretaries of State, and now deposited, or intended to be forthwith deposited, among the records of Her Majesty's court of Exchequer, and coloured red on the same plan; subject nevertheless to the maintenance of a foot and carriage way into the great quadrangle at the place marked on the said plan to the satisfaction of the Commissioners for the time being of Her Majesty's Works and Public Buildings, so long as the same shall be required by the same Commissioners.

THE INDIAN HIGH COURTS ACT, 1865.¹

(28 & 29 Vict., c. 15.)

An Act to extend the Term for granting fresh Letters Patent for the High Courts in India, and to make further Provision respecting the Territorial Jurisdiction of the said Courts.

[7th April, 1865.]

[Preamble recites 24 & 25 Vict., c. 104.]

1. [Rep. 56 & 57 Vict., c. 14 (S. L. E.)]

2. [Rep. 41 & 42 Vict., c. 79 (S. L. E.).]

Power to Governor General in Council to alter local limits of jurisdiction of high courts, and to authorize the exercise of jurisdiction beyond the limits of the Presidency, etc., and in respect of Christian subjects within the dominions of States of India in alliance with Her Majesty.

3. It shall be lawful for the Governor General of India in Council, by order, from time to time to transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts established or to be established under the said Act, and to authorize and empower any high court to exercise all or any portion of the jurisdiction and powers conferred or to be conferred on it by Her Majesty's letters patent establishing the same, or any other letters patent issued by Her Majesty under the provisions of the Indian High Courts Act, 1861, within any such portions of Her Majesty's dominions in India, not included within the limits of the Presidency or place or places for which such high court was established as the said Governor General in Council may from time to time determine, and also to exercise any such jurisdiction in respect of Christian subjects of Her Majesty resident within the dominions of such of the Princes and States of India in alliance with Her Majesty as the said Governor General in Council may, in manner aforesaid, from time to time determine, anything in the Indian High Courts Act, 1861, notwithstanding.

28 & 29 Vict., c. 15.] *The Indian High Courts Act, 1865.* (Secs. 4-6.) 397

28 & 29 Vict., c. 17.] *The Government of India Act, 1865.* (Secs. 1-2.)

4. Whenever any such Order has been passed by the Governor General in Council, he shall transmit to the Secretary of State for India an authentic copy thereof; .

Disallowance
of orders of
Governor
General.

and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such Order;

and such disallowance shall make void and annul such Order from and after the day on which the Governor General shall make known by proclamation, or by signification to his Council, that he has received the notification of such disallowance by Her Majesty:

Provided always, that all acts, proceedings, and judgments done, taken, or given by such high courts and not set aside by any competent authority, before the promulgation or signification as aforesaid of such disallowance by Her Majesty, shall be deemed to be and to have been valid and effectual for all purposes whatever, such disallowance notwithstanding.

5. [Rep. 41 & 42 Vict., c. 79 (S. L. R.).]

6. Nothing in this Act contained shall interfere with the powers of the Governor General in Council at meetings for the purpose of making laws and regulations.

Saving for
certain powers
of Governor
General in
Council.

THE GOVERNMENT OF INDIA ACT, 1865.¹

(28 & 29 Vict, c 17.)

An Act to enlarge the Powers of the Governor General of India in Council at Meetings for making Laws and Regulations, and to amend the Law respecting the Territorial Limits of the several Presidencies and Lieutenant Governorships in India.

[9 th May, 1865.]

[Preamble recites 24 & 25 Vict., c. 67, s. 22.]

1. The Governor General of India shall have power at meetings for the purpose of making laws and regulations, to make laws and regulations for all British subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty whether in the service of the Government of India or otherwise.

Power to
make laws for
all British
subjects in
territories of
allied Princes
in India,
whether in
service of
Government
or otherwise.

2. The preceding section shall be read with and taken as part of section twenty-two of the said Act of the twenty-fourth and twenty-fifth years of Her Majesty, chapter sixty-seven.

Preceding
section to be
read as part
of s. ct. 22 of
recited Act.

3. [Rep. 41 & 42 Vict., c. 79 (S. L. R.).]

¹ For digest and notes, see *Libert's Government of India*, p. 321.

Power to Governor General to appoint territorial limits of Presidencies, etc., by proclamation.

4. It shall be lawful for the Governor General of India in Council from time to time to declare and appoint, by proclamation, what part or parts of the Indian territories for the time being under the dominion of Her Majesty shall be or continue subject to each of the Presidencies and Lieutenant Governorships for the time being subsisting in such territories, and to make such distribution and arrangement, or new distribution and arrangement, of such territories into or among such Presidencies and Lieutenant Governorships as to the said Governor General in Council may seem expedient.

Power to Secretary of State in Council to signify disallowance of such proclamation. Royal sanction necessary to transfer of entire districts.

5. Provided always that it shall be lawful for the Secretary of State in Council to signify to the said Governor General in Council his disallowance of any such proclamation:

and provided further that no such proclamation for the purpose of transferring an entire zila or district from one Presidency to another, or from one Lieutenant Governorship to another, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

THE INDIA OFFICE SITE AND APPROACHES ACT, 1865.

(28 & 29 Vict., c. 32.)

An Act to enable the Secretary of State in Council of India to acquire additional Lands for improving the Site of the India Office and the Approaches thereto.

[2nd June, 1865.]

WHEREAS under the provisions of the Act of the twenty-seventh and twenty-eighth years of Her Majesty, chapter fifty-one, intituled "An Act to vest the site of the India Office in Her Majesty for the service of the Government of India," the land described in the schedule to that Act, (subject as in the same schedule is mentioned,) became vested in Her Majesty, her heirs and successors, for the service of the Government of India as a site for the offices of the Secretary of State in Council of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six:

And whereas certain houses, buildings, and lands in the parish of St. Margaret, Westminster, in the county of Middlesex, particularly described and shown in the plan hereinafter mentioned, are required by the Secretary of State in Council of India as additional site for the offices of his department and for the approaches thereto, but such houses, buildings, and lands cannot be acquired without the authority of Parliament:

And whereas, a plan describing the situation of the said houses, buildings, and land, hereinafter referred to as the prescribed lands, with a book of refer-

(Secs. 1-6.)

ence thereto containing the names of the owners and lessees or reputed owners and lessees, and of the occupiers thereof, has been deposited with the clerk of the peace for the county of Middlesex, at his office at the sessions house, Clerkenwell, and it is expedient that powers should be given to the Secretary of State in Council of India to purchase the prescribed lands and to appropriate the same for the purposes aforesaid:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same, as follows:

1. This Act may be cited for all purposes as "The India Office Site and Approaches Act, 1865."

2. The Secretary of State in Council of India for the time being, hereinafter referred to as "The Secretary of State in Council," may purchase all or any of the prescribed lands and appropriate the same as additional site for the offices of the department of the Secretary of State in Council and for convenient accesses and approaches thereto and carry the purposes of this Act into execution.

Power to Secretary of State in Council to purchase lands.

3. All lands purchased by the Secretary of State in Council in pursuance of this Act shall be conveyed to the Secretary of State in Council in trust for Her Majesty, her heirs and successors, and shall thereupon vest in Her Majesty, her heirs and successors, for the service of the Government of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six.

Lands purchased to vest in Her Majesty, etc.

4. All lands purchased by the Secretary of State in Council in pursuance of this Act, and hereafter used and occupied exclusively as offices and for the purposes of this Act, which were at the time of such purchase subject to land tax or to poor or other rates, shall continue liable thereto, but they shall not be assessed to any tax or rate at a high value than that at which they were assessed at the time of the purchase thereof, so long as they shall be so used and occupied as aforesaid.

Lands to continue subject to land tax and rates.

5. The Secretary of State in Council, his surveyors, officers, and workmen, may at all reasonable times in the daytime, upon giving twenty-four hours, previous notice in writing, enter into and upon any of the prescribed lands for the purpose of surveying or valuing the same.

Power to enter on lands.

6. "The Lands Clauses Consolidation Act, 1845," and the Act amending the same, passed in the session of the twenty-third and twenty-fourth years of her present Majesty, chapter one hundred and six, shall be incorporated with this

8 & 9 Vict., c. 18, and 23 & 24 Vict., c. 106, incorporated.

Act, with the exceptions and additions and subject to the provisions hereinafter contained; (that is to say,)

- (1) there shall not be incorporated with this Act the sections and provisions of "The Lands Clauses Consolidation Act, 1845," herein-after mentioned; (that is to say) section sixteen whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; section seventeen whereby it is provided that the certificate of the justices shall be evidence that the capital has been subscribed; or the provisions relating to the access to the special Act:
- (2) in the construction of this Act and the said incorporated Acts this Act shall be deemed to be "the special Act," and the said incorporated Acts shall be read as if the expression "the promoters of the undertaking" were in the singular number, and the Secretary of State in Council shall be deemed and taken to be the promoter of the undertaking:
- (3) the term "sheriff" used in the provisions of "The Lands Clauses Consolidation Act, 1845," relating to the reference to a jury, shall be deemed to apply to the high bailiff of the city and liberty of Westminster or his deputy:
- (4) the bond required by section eighty-five of "The Lands Clauses Consolidation Act, 1845," shall be under the hand and seal of the Secretary of State in Council, and shall be sufficient without the addition of the sureties in the said section mentioned.

Extinction
of rights of
way and other
easements.

7. Upon the purchase by the Secretary of State in Council of the prescribed lands or any part thereof, save as hereinafter provided in section eleven of this Act, all rights of way, rights of laying down or continuing any pipes, sewers, or drains on, through, or under such lands or part thereof, and all other rights or easements in or relating to such lands or part thereof, shall be extinguished, and all the soil of such ways and the property in the pipes, sewers, or drains shall vest in Her Majesty, her heirs and successors, for the service of the Government of India, subject to this provision, that all persons and bodies of persons, corporate or unincorporate, may recover from the Secretary of State in Council such compensation, if any, as they may be entitled to for any rights or property of which they may be deprived in pursuance of this section, the amount of such compensation to be determined in manner provided by "The Lands Clauses Consolidation Act, 1845."

Compensation
in case of
tenants at
will, etc.

8. All claims for compensation made upon the Secretary of State in Council under the provisions of this Act, or any Act incorporated herewith, shall, if the

(Secs. 9-16.)

person claiming to be entitled to compensation has no greater interest than as tenant for a year or from year to year in the lands in respect of which the compensation is claimed, be determined in manner provided by the one hundred and twenty-first section of "The Lands Clauses Consolidation Act, 1845."

9. The period within which the powers for the compulsory purchase of lands under this Act may be exercised shall be five years from the passing of this Act. Powers for compulsory purchases limited.

10. The Secretary of State in Council may pull down and remove any buildings on the prescribed lands, and may construct thereon such buildings and works and do all such other things as may in his opinion be necessary or expedient in order to carry the purposes of this Act into execution. Powers to Secretary of State in Council to execute works.

11. Nothing in this Act shall extend to take away or impair any rights or jurisdiction of the metropolitan board of works in relation to any sewers, drains, or watercourses. As to rights of metropolitan board of works.

12. All buildings erected on the prescribed lands shall be exempt from the operation of the first part of "The Metropolitan Buildings Act, 1855." Exemption from Building Act.

13. Every notice, summons, writ, or other document required to be given, issued, or signed by or on behalf of the Secretary of State in Council may be given, issued, or signed by the Principal Secretary of State for India for the time being, or one of his Under Secretaries of State, or the solicitor for the time being of the Secretary of State in Council, and need not be under seal, and may be in writing or in print, or partly in writing and partly in print. Authentication of notices.

14. All orders which under this Act the court of chancery is empowered to make on motion or petition in relation to any money paid into the Bank of England with the privity of the accountant general of the court of chancery under this Act, or the securities in or upon which the same may be invested, or the dividends or interest on such money and securities, may be made by any judge of the said court upon application to him while sitting at chambers, upon summons, in like manner as in other cases in which proceedings may be so had; subject, nevertheless, to any general orders which may hereafter be made concerning the practice, proceedings, or business of the said Court on any such applications. Orders concerning money paid into court may be made at chambers.

15. If any person wilfully obstruct any person acting under the authority of the Secretary of State in Council in the lawful exercise of the powers vested in the Secretary of State in Council under this Act, he shall forfeit a sum not exceeding five pounds for every such offence, to be recovered in a summary manner. Penalty for obstructing the Secretary of State in Council.

16. A copy of the plan of the prescribed lands shall be deposited at the office of the Secretary of State in Council, and shall remain at the said office, Plan to be deposited in India Office

(Sec. 2.)

and to be
open for in-
spection.

to the end that all persons may at all seasonable times, on payment of a fee of one shilling, have liberty to inspect the same.

THE INDIA MILITARY FUNDS ACT, 1866.

(29 & 30 Vict., c. 18.)

An Act to make Provision for the Transfer of the Assets, Liabilities and Management of the Bengal, Madras, and Bombay Military Funds, the Bengal Military Orphan Society, and other Funds, to the Secretary of State for India in Council.

[30th April, 1866.]

[Preamble refers to certain institutions known as the Bengal, Madras and Bombay Military Funds and the Bengal Military Orphan Society, etc.]

1. [Rep. 56 & 57 Vict., c. 14 (S. L. R.).]

Rights of
incumbents
and subscri-
bers main-
tained.

2. * * * * * every person who shall be an incumbent on or subscriber to any of the said institutions at the date of such notification shall be entitled from time to time to receive from the revenues of India such allowance to himself, and his family shall be entitled to receive such pension or allowance after his decease, as he or she may be entitled to by the regulations of the said institutions:

Power to
assign addi-
tional benefits

Provided, that nothing in this Act contained shall be held to preclude the Secretary of State for India in Council from assigning to the incumbents on and subscribers to any of the said institutions, or to their families after their decease, any benefits in addition to those secured to them by this Act, if, on considering the assets and liabilities of the several institutions, he shall deem it reasonable so to do.

3. [Rep. 56 & 57 Vict., c. 14 (S. L. R.).]

(Secs. 1-3.)

THE INDIAN PRIZE MONEY ACT, 1866.

(29 & 30 Vict., c. 47.)

An Act to legalize the Payment and Distribution of Indian Prize Money by the Treasurer or Secretary of Chelsea Hospital, and to amend an Act for the consolidating and amending the Law relating to the Payment of Army Prize Money.

[28th June, 1866.]

[Preamble recites 2 & 3 Will. 4, c. 53, s. 14, etc.]

1. The receipt of the treasurer or secretary of Chelsea Hospital, or his deputy, for all sums of money heretofore by the said directors of the East India Company, or the Secretary of State for India in Council, or hereafter by the said Secretary of State, paid over and accounted for as portions of grants of money in the nature of prize shall be a complete and effectual discharge to the said directors or Secretary of State as the case may be, paying the same, from all claims of officers and troops of Her Majesty's Army having any right or title thereto or to the distribution thereof in respect of captures or expeditions in which such officers and troops have been engaged.

Receipt of treasurer or secretary of Chelsea Hospital for sums heretofore or hereafter paid over by East India Company or Secretary of State for India as monies in nature of army prize to be an effectual discharge. All sums so paid, and already distributed under recited Act, to be deemed to have been legally dealt with and distributed, and sums hereafter paid to be distributed under recited Act.

2. All such monies as have been so received by the said treasurer, secretary, or by his deputy, from the said directors of the late East India Company, or the Secretary of State for India in Council, shall be held and are hereby declared * * * * * so far as the same remain in the hands of the said treasurer, secretary, or his deputy, * * * * * to be subject and liable to all the provisions and conditions of the said recited Act, so far as the same are applicable to prize granted by Her Majesty to and to be received on behalf of the Army by the said treasurer of Chelsea Hospital or his deputy.

3. In all cases where grants of money in the nature of prize shall hereafter be made by Her Majesty, or by Parliament, or otherwise, to the Secretary of State for India in Council, for the benefit of officers and troops of Her Majesty's Army in respect of captures and expeditions in which such officers and troops may have been engaged in India, such portions of the same as are distributable in the United Kingdom or elsewhere out of India shall be received by the said treasurer, secretary, or his deputy, to be distributed to the persons entitled thereunto according to their respective proportions under the provisions of the said recited Act, and of this and of any other Act amending the same.

Payment and distribution of grants hereafter made in nature of army prize, in respect of captures in India, and distributable out of India.

(Secs. 4-8.)

Interpretation of "officers and troops of Her Majesty's Army." 4. For the purpose of this Act the words "officers and troops of Her Majesty's Army" shall not be held to include officers and soldiers of Her Majesty's European or native Indian forces.

Signature of certificates or orders required from out-pensioners of Chelsea Hospital. 5. Where under the recited Act any certificate or order in the form E or in any other form, is required from any non-commissioned officer or soldier who shall be or shall have been an out-pensioner of Chelsea Hospital, the same may be signed by the staff officer of pensioners for the district in which the said non-commissioned officer or soldier shall reside, in lieu of any other person or officer mentioned in the said Act.

In certain cases of payment of prize money due to deceased officers or soldiers, probate or letters of administration need not be taken out. 6. Where any officer, non-commissioned officer, or soldier entitled to prize money shall have died before the payment or distribution thereof, then, if the sum to which the deceased was entitled does not exceed the sum mentioned in the Army Prize (Shares of Deceased) Act, 1864, it shall not be necessary, for the purpose of making payment or distribution, that probate or letters of administration should be taken out; but in any case the said treasurer or secretary may, if he sees fit, require probate or letters of administration to be taken out; and if, on that requisition or otherwise, probate or letters of administration are taken out, then he shall pay the prize money to the executor or administrator.

Payment of prize in money, when administration is not taken out. 7. Where the prize to which the deceased was entitled does not exceed the sum last referred to, and probate or letters of administration are not taken out, then the said treasurer or secretary shall, if he thinks fit, pay over the same to any person showing herself or himself to the satisfaction of the said treasurer or secretary to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to the representation to the deceased, to the end that the said prize may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be applied accordingly, or else distribute the same according to the Statute of Distributions.

Stamp duty on orders for payment of prize money may be paid by receipt or draft stamps affixed. No duty on orders for less than 40s. 8. Where under the statutes at present in force an order for the payment of prize money is liable to stamp duty the amount of such duty may be paid by receipt or draft stamps affixed to the said order, equal in the total amount thereof to the stamp duty payable on an inland bill for a sum equal to that for which the order is given; and that no order for any sum less than forty shillings shall be liable to stamp duty.

(Part I.—Articles of War.—Secs. 1-3.)

THE NAVAL DISCIPLINE ACT.¹

(29 & 30 Vict., c. 109.)

An Act to make Provision for the Discipline of the Navy.

[10th August, 1866.]

[Printed, as amended, in accordance with the Naval Discipline Act, 1884
(47 & 48 Vict., c. 39), s. 7 (2).]

WHEREAS it is expedient to amend the law relating to the government of the Navy, whereon, under the good Providence of God, the wealth, safety and strength of the Kingdom chiefly depend:

PART I.

ARTICLES OF WAR.

Public Worship.

1. All officers in command of Her Majesty's ships of war shall cause the public worship of Almighty God according to the liturgy of the Church of England established by law to be solemnly, orderly, and reverently performed in their respective ships, and shall take care that prayers and preaching, by the chaplains in Holy Orders of the respective ships, be performed diligently, and that the Lord's Day be observed according to law.

Public wor-
ship to be
performed in
ships.

Misconduct in the Presence of the Enemy.

2. Every flag officer, captain, commander, or officer commanding subject to this Act, who upon signal of battle, or on sight of a ship of an enemy which it may be his duty to engage, shall not

Penalty for
misconduct
in action.

(1) use his utmost exertion to bring his ship into action;

(2) or shall not during such action in his own person and according to his rank encourage his inferior officers and men to fight courageously;

(3) or who shall surrender his ship to the enemy when capable of making a successful defence, or who in time of action shall improperly withdraw from the fight,

shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is herein-after mentioned; and if he has acted from negligence, or through other default, he shall be dismissed from Her Majesty's service, with or without disgrace, or shall suffer such other punishment as is herein-after mentioned.

3. Every officer subject to this Act who shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or shall not relieve and assist

Penalty for
not pursuing
the enemy, or

¹ For short title, see s. 84, post.

(Part I.—Articles of War.—Secs. 4-9.)

not assisting
a friend in
view.

a known friend in view to the utmost of his power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death; if he has acted from cowardice, suffer death, or such other punishment as is herein-after mentioned; if he has acted from negligence, or through other default, shall be dismissed from Her Majesty's service, with disgrace, or shall suffer such other punishment as is herein-after mentioned.

Penalty for
delaying or
discouraging
action or ser-
vice, deserting
post, or sleep-
ing on watch.

4. When any action or any service is commanded, every person subject to this Act who shall presume to delay or discourage the said action or service upon any pretence whatsoever, or in the presence or vicinity of the enemy shall desert his post or sleep upon his watch, shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for
misconduct of
subordinate
officers and
men in action.

5. Every person subject to this Act, and not being a commanding officer, who shall not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is herein-after mentioned; and if he has acted from negligence, or through other default, be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Communications with the Enemy.

Penalty on
spies.

6. All spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for
corresponding,
etc. with the
enemy.

7. Every person subject to this Act who shall—

- (1) traitorously hold correspondence with or shall give intelligence to the enemy;
- (2) or fail to make known to the proper authorities any information he may have received from the enemy;
- (3) or who shall relieve the enemy with any supplies,

shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for
improper com-
munication
with the
enemy.

8. Every person subject to this Act who shall, without any treacherous intention, hold any improper communication with the enemy, shall be dismissed with disgrace from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned.

Neglect of Duty.

Penalty for
deserting post,
sleeping on

9. Every person subject to this Act who shall desert his post or sleep upon his watch, or negligently perform the duty imposed on him, shall be dismissed

(Part I.—Articles of War.—Secs. 10-16.)

from Her Majesty's service, with disgrace, or shall suffer such other punishment as is herein-after mentioned. watch, or neglecting duty.

Mutiny.

10. Where mutiny is accompanied by violence, every person subject to this Act who shall join therein shall suffer death, or such other punishment as is herein-after mentioned; Penalty for mutiny accompanied by acts of violence, and for not using utmost efforts to suppress such mutiny.

and every person subject to this Act who shall not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death, or such other punishment as is herein-after mentioned; if he has acted from cowardice, shall suffer penal servitude, or such other punishment as is herein-after mentioned; if he has acted from negligence, he shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

11. Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is herein-after mentioned; and all other persons who shall join in such mutiny or shall not use their utmost exertions to suppress the same, shall suffer imprisonment, or such other punishment as is herein-after mentioned. Penalty for mutiny not accompanied by acts of violence, and for not using utmost efforts to suppress such mutiny.

12. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavour to incite him to commit any act of mutiny, shall suffer death, or such other punishment as is herein-after mentioned. Penalty for seducing from allegiance, or inciting to mutiny.

13. Every person, not otherwise subject to this Act, who, being on board any ship of Her Majesty, shall endeavour to seduce from his duty or allegiance to Her Majesty any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death, or such other punishment as is herein-after mentioned. Penalty on civilians endeavouring to seduce from allegiance.

14. Every person subject to this Act who shall make or endeavour to make any mutinous assembly, or shall lead or incite any other person to join in any mutinous assembly, or shall utter any words of sedition or mutiny, shall suffer penal servitude, or such other punishment as is herein-after mentioned. Penalty for making mutinous assemblies or uttering seditious words.

15. Every person subject to this Act who shall wilfully conceal any traitorous or mutinous practice or design, or any traitorous or mutinous words spoken against Her Majesty, or any words, practice, or design tending to the hindrance of the service, shall suffer penal servitude, or such other punishment as is herein-after mentioned. Penalty for concealing any traitorous or mutinous practice, design, or words.

16. Every person subject to this Act who shall strike, or with any weapon attempt to strike, or draw or lift up any weapon against, his superior officer Penalty for striking or attempting to

(Part I.—Articles of War.—Secs. 17-19.)

strike, etc.
superior
officer.

being in the execution of his office, shall be punished with death, or such other punishment as is herein-after mentioned :

and every person subject to this Act who shall, otherwise than with a weapon, attempt to strike or use or attempt to use any violence against his superior officer being in the execution of his office, shall be punished with penal servitude, or such other punishment as is herein-after mentioned ;

and every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer not being in the execution of his office, shall be punished with penal servitude, or such other punishment as is herein-after mentioned.

Insubordination.

Penalty for
disobedience
or using
threatening
language to
superior
officer.

17. Every person subject to this Act who shall wilfully disobey any lawful command of his superior officer or shall use threatening or insulting language, or behave with contempt to his superior officer, shall be punished with dismissal with disgrace from Her Majesty's service or suffer such other punishment as is herein-after mentioned.

Penalty for
quarrelling,
etc., or using
reproachful
speech or
gestures.

18. Every person subject to this Act who shall quarrel or fight with any other person, whether such other person be or be not subject to this Act, or shall use reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Desertion and Absence without Leave.

Penalty for
desertion.

19. Every person subject to this Act who shall absent himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who shall at any time and under any circumstances, when absent from his ship or place of duty, do any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly ; that is to say,

(1) if he has deserted to the enemy, he shall be punished with death, or such other punishment as is herein-after mentioned ;

(2) if he has deserted under any other circumstances, he shall be punished with penal servitude, or such other punishment as is herein-after mentioned ;

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him, and all annuities, pensions, gratuities, medals, and decorations that may have been granted to

(Part I.—Articles of War.—Secs. 20-24.)

him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted, unless the tribunal by which he is tried, or the Admiralty, shall otherwise direct.

20. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Penalty for inducing any person to desert.

21. Every officer in command of any ship of Her Majesty who shall receive or entertain any deserter from Her Majesty's military or naval forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from Her Majesty's naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or if such ship is at a distance, to the Secretary of the Admiralty or to the commander-in-chief, or, in case of a deserter from Her Majesty's military forces, give notice to the Secretary of War or the commanding officer of the regiment to which such deserter belongs, the officer so offending shall be dismissed from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned.

Penalty on officers entertaining deserters from military or naval forces.

22. If any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment or to such other punishment as is herein-after mentioned, and to such other punishment by forfeiture of wages or of other benefits as the Admiralty from time to time by regulations prescribe.

Penalty for improperly leaving ship or place of duty.

23. Every person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) shall be absent without leave shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the Admiralty from time to time by regulations prescribe.

Penalty for absence without leave.

24. If any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not) but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the Admiralty from time to time by regulations prescribe; and the Admiralty, or, on a foreign station, the commander-in-chief, may by an order containing a statement of the absence without leave direct that the clothes and effects (if any) left by him on boardship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the Admiralty or the commander-in-chief (as the case may be) may direct; and every order under this

Forfeiture of effects by persons absent without leave for a month, but not apprehended and tried.

(Part I.—Articles of War.—Secs. 25-28.)

provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the Admiralty may, if it seems fit, on sufficient cause being shewn at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

Penalty on any person not subject to this Act for assisting, etc. desertion.

25. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs, or continues to employ any person subject to this Act who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent,

he shall, for every such offence of assistance, procurement, concealment, employment, or continuance of employment, be liable, on summary conviction thereof before a justice or justices, or before any person or persons or court exercising like authority in any part of Her Majesty's dominions, to a penalty not exceeding thirty pounds;

Application of penalty.

and, notwithstanding anything in any Act relating to municipal corporations, or to the metropolitan police, or in any other Act, every such penalty shall be applied as the Admiralty direct.

Penalty on any such person for persuading to desertion, etc.

26. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on summary conviction thereof before a justice or justices, or before any person or persons or court exercising like authority in any part of Her Majesty's dominions, to a penalty not exceeding twenty pounds;

Application of penalty.

and, notwithstanding anything in any Act relating to municipal corporations, or to the metropolitan police, or in any Act, every such penalty shall be applied as the Admiralty direct.

Miscellaneous Offences.

Penalty for profane swearing and other immoralities.

27. Every person subject to this Act who shall be guilty of any profane oath, cursing, execration, drunkenness, uncleanness, or other scandalous action, in derogation of God's honour and corruption of good manners, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty on officer for cruelty, fraud, or unbecoming conduct.

28. Every officer subject to this Act who shall be guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from Her Majesty's service; and every officer subject to this Act who shall be guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from Her Majesty's service.

(Part I.—Articles of War.—Secs. 29-33.)

29. Every person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard, or suffer to be lost, stranded, or hazarded, any ship of Her Majesty or in Her Majesty's service, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty for suffering ships to be improperly lost.

30. The officers of all ships of Her Majesty appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay, according to their instructions in that behalf;

Penalty for not taking care of and defending ships under convoy, or for exacting reward from merchants or masters, or ill-treating masters or mariners.

and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for convoying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death, or such other punishment as is herein-after mentioned.

31. Every master or other officer in command of any merchant or other vessel under the convoy of any ship of Her Majesty shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy, and shall take such precautions for avoiding the enemy as may be directed by such commanding officer;

Master of merchant vessel to obey orders of convoying officer.

and if he shall fail to obey such directions, such commanding officer may compel obedience by force of arms, without being liable for any loss of life or of property that may result from his using such force.

32. Every officer in command of any of Her Majesty's ships who shall receive on board or permit to be received on board such ship any goods or merchandises whatsoever, other than for the sole use of the ship, except gold, silver, or jewels, and except goods and merchandise belonging to any merchant or on board any ship which may be shipwrecked or in imminent danger either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Admiralty or his superior officer, shall be dismissed from Her Majesty's service or suffer such other punishment as is herein-after mentioned.

Penalty for taking any goods on board, other than for use of vessel, except gold, silver, jewels, etc.

33. Every person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell, or receive any ammunition, provisions, or other public stores, and every person subject to this Act who shall knowingly permit

Penalty for wasting or embezzling public stores.

(Part I.—Articles of War.—Secs. 34-39.)

or permitting such waste, etc.

any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Penalty for burning any magazine or vessel, etc. not belonging to an enemy.

34. Every person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores or to any ship, vessel, hoy, barge or boat, or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for making or signing false musters, etc.

35. Every person subject to this Act who shall knowingly make or sign a false muster or record or other official document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty for misconduct in hospital, or for feigning disease.

36. Every person subject to this Act who shall wilfully do any act, or wilfully disobey any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who shall feign any disease, infirmity, or inability to perform his duty, shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Complaints of unwholesomeness of victuals or on other just grounds, how to be made and redressed.

37. Every person subject to this Act who shall have any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or commander-in-chief, and the said superior, captain, or commander-in-chief shall, as far as he is able, cause the same to be presently remedied;

Penalty for endeavouring to stir up disturbance.

and no person subject to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a court-martial may think fit to inflict, according to the degree of offence.

Penalty for not sending to Court of Admiralty or other prize court all papers found aboard prize ships.

38. All the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the Court of Admiralty, or such other court or commissioners as shall be authorized to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned, and in addition thereto shall forfeit and lose his share of the capture.

Penalty for taking money

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the

(Part I.—Articles of War.—Secs. 40-44.)

better securing thereof, or for the necessary use and service of any of Her Majesty's ships and vessels of war, before the same be adjudged lawful prize in some Admiralty court; but the full and entire account of the whole without embezzlement shall be brought in, and judgment passed entirely upon the whole, without fraud; upon pain that every person offending herein shall be dismissed from Her Majesty's service with disgrace, or suffer such other punishment as is herein-after mentioned, and in addition thereto forfeit and lose his share of the capture.

40. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

or other effects out of any prize before the same shall be condemned.

Penalty for stripping or ill-using persons taken on board as prize.

41. If the commanding officer of any of Her Majesty's ships does any of the following things, namely,

- (1) by collusion with the enemy takes as prize any vessel, goods, or thing;
- (2) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize; or
- (3) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize;

Penalty on commanders capturing as prize by collusion, or collusively restoring ships or goods.

he shall be liable to dismissal from Her Majesty's service with disgrace, or to such other punishment as is herein-after mentioned.

42. If any person subject to this Act breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave trade or to the Customs, with intent to embezzle any thing therein or belonging thereto, he shall be liable to dismissal from Her Majesty's service with disgrace or to such other punishment as is herein-after mentioned, and in addition thereto to forfeit and lose his share of the capture.

Penalty for breaking bulk on board prize ship or ship detained under belligerent rights, etc. with a view to embezzlement.

43. Every person subject to this Act who shall be guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not herein-before specified, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty for offences against naval discipline not particularly mentioned.

44. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death or penal servitude, shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

Offences to be punished according to laws and customs in use, where punishment is not expressly provided.

(*Part I.—Articles of War. Secs. 45-46. Part II.—General Provisions.
Sec. 47.*)

Offences punishable by ordinary Law.

Penalties for
offences
punishable by
ordinary law.

45. Every person subject to this Act who shall be guilty of murder shall suffer death:

if he shall be guilty of manslaughter, he shall suffer penal servitude, or such other punishment as is herein-after mentioned:

if he shall be guilty of sodomy with man or beast, he shall suffer penal servitude:

if he shall be guilty of an indecent assault, he shall suffer penal servitude, or such other punishment as is herein-after mentioned:

if he shall be guilty of robbery or theft, he shall suffer penal servitude, or such other punishment as is herein-after mentioned:

if he shall be guilty of any other criminal offence which if committed in England would be punishable by the law of England, he shall, whether the offence be or be not committed in England, be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in England.

Offences,
when punish-
able.

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of the United Kingdom, or anywhere within the jurisdiction of the Admiralty or at any place on shore out of the United Kingdom of Great Britain and Ireland, or in any of Her Majesty's dockyards, victualing yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to Her Majesty, whether in or out of the said United Kingdom, the offender may be tried and punished under this Act;

and for all offences herein-before specified under the headings "Misconduct in the Presence of the Enemy," "Communications with the Enemy," "Neglect of Duty," "Mutiny," "Insubordination," "Desertion and Absence without Leave," or "Miscellaneous Offences," if committed by any person subject to this Act at any place on shore, whether in or out of the said United Kingdom, the offender may be tried and punished under this Act.

PART II.

GENERAL PROVISIONS.

Power of
court-martial
to find intent

47. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any prisoner is

(Part II.—General Provisions.—Secs. 48-51. Part III.—Regulations as to Punishments. Sec. 52.)

charged with having committed such offence with an intent involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly.

with which offence was committed, and award punishment accordingly.

48. Where any prisoner shall be charged with murder, a court-martial may find him guilty of manslaughter or of a common assault;

Power of court-martial to find prisoner guilty of lesser offence on charge of greater.

where he shall be charged with sodomy, a court-martial may find him guilty of an indecent assault;

where he shall be charged with theft, a court-martial may find him guilty of an attempt to thief, or of embezzlement, or of wrongful appropriation of property belonging to another;

and generally where any prisoner shall be charged with any offence under this Act he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment.

49. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

Armed rebels and mutineers, and pirates, to be deemed enemies.

50. Every officer in command of a fleet or squadron of Her Majesty's ships, or of one of Her Majesty's ships, or the senior officer present at a port, may by warrant under his hand authorize any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant;

Power to arrest offenders.

and any such warrant may include the names of more persons than one in respect of several offences of the same nature;

and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of Her Majesty's ships; and any person so authorized may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act.

51. Every person subject to this Act who shall not use his utmost endeavours to detect, apprehend, and bring to punishment all offenders against this Act, and shall not assist the officers appointed for that purpose, shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Penalty for not assisting in detection, etc. of offenders.

PART III.

REGULATIONS AS TO PUNISHMENTS.

52. The following punishments may be inflicted in Her Majesty's Navy: Punishments.

(1) Death:

(Part III.—Regulations as to Punishments. Sec. 53.)

- (2) Penal servitude:
- (3) Dismissal with disgrace from Her Majesty's service:
- (4) Imprisonment or corporal punishment:
- (5) Dismissal from Her Majesty's service:
- (6) Forfeiture of seniority as an officer for a specified time or otherwise:
- (7) Dismissal from the ship to which the offender belongs:
- (8) Severe reprimand, or reprimand:
- (9) Disrating a subordinate or petty officer:
- (10) Forfeiture of pay, head money, bounty, salvage, prize money, and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to the offender or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs:
- (11) Such minor punishments as are now inflicted according to the custom of the Navy, or may from time to time be allowed by the Admiralty:

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations
as to infliction of punishments.

53. The following regulations are hereby made with respect to the infliction of punishments in Her Majesty's Navy:

- (1) The Admiralty may, except in case of sentence of death, which shall only be remitted by Her Majesty, suspend, annul, or modify any sentence passed on any person subject to this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted;

and any sentence so modified shall (subject to the provisions of this Act) be valid and shall be carried into execution, as if it had been originally passed, with such modifications by the court-martial; but so that the punishment involved in any sentence be not increased by any such modification:

- (2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence:

(Part III.—Regulations as to Punishments. Sec. 53.)

- (3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the Admiralty, or by the Commander-in-Chief on a foreign station:
- (4) The punishment of penal servitude may be inflicted for the term of life, or for any other term of not less than five¹ years:
- (5) The punishment of penal servitude shall in all cases involve dismissal with disgrace from Her Majesty's service:
- (6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money, and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to, the offender, and an incapacity to serve Her Majesty again in any military, naval, or civil service, and may also in all cases be accompanied by a sentence of imprisonment:
- (7) The punishment of imprisonment may be inflicted for any term not exceeding two years.
- (8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term, not exceeding fourteen days at any one time and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement;
and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods:
- (9) A sentence of imprisonment may also be accompanied with a direction that the prisoner shall be kept to hard labour for all or any part of the term of imprisonment;
and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour, or either of them:
- (10) The punishment of imprisonment whether on board ship or on shore shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and

¹ Three years substituted by 54 & 55 Vict., c. 69, s. 1.

(Part III.—Regulations as to Punishments. Secs. 54-56.)

shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment:

(11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted:

no officer shall be subject to corporal punishment:

no petty or non-commissioned officer shall be subject to corporal punishment except in case of mutiny:

All other punishments authorized by this Act may be inflicted in the manner heretofore in use in the navy.

Limitation of
time for
trials.

54. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence, or within one year after the return of such offender to the United Kingdom, where he has been absent from the United Kingdom during such period of three years.

Scale of
punishment.

55. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment, according to the scale herein-before mentioned;

Corporal
punishment.

but corporal punishment shall be deemed equal in degree to imprisonment and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment.

Authorities
having power
to try offences.

56. (1) Any offence triable under this Act may be tried and punished by court-martial.

(2) Any offence triable under this Act, not committed by an officer (except in the cases by this Act expressly provided for), and not hereby made capital, may, under such regulations as the Admiralty may from time to time issue, be summarily tried and punished by the officer in command of the ship to which such offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude or to award imprisonment for more than three months.

(3) The power by this section vested in an officer commanding a ship may,—

(a) as respects persons on board a tender to the ship, be exercised, when the tender is absent from the ship, by the officer in command of the tender, and

(Part III.—*Regulations as to Punishments. Sec. 57. Part IV.—Courts-Martial. Sec. 58.*)

(b) as respects persons on board any boat or boats belonging to the ship, be exercised, when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats; and

(c) as respects persons subject to this Act on shore detached service, or such of those persons as are not for the time being subject to military law by an order under section one hundred and seventy-nine of the Army Act, be exercised by the officer in immediate command on shore of those persons.

(4) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his or their opinion as to the guilt or innocence of the prisoner reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right.

57. With respect to the authorities by whom certain punishments may be imposed, the following provisions shall take effect, namely,

- (1) With respect to any subordinate officer, the punishment of forfeiture of time or seniority may be imposed as follows; namely, by the Admiralty for any time not exceeding twelve months, by the Commander-in-Chief on a foreign station for any time not exceeding six months, or by the commanding officer for any time not exceeding three months:
- (2) With respect to any subordinate officer, the Commander-in-Chief on a foreign station shall have power to impose the punishments numbered (7), (8), and (9) in the scale herein-before contained.

Authorities empowered to impose punishments to adhere to provisions herein named.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-martial.

58. The following regulations are hereby made with respect to courts-martial:

Constitution of courts martial.

- (1) A court-martial shall consist of not less than five nor more than nine officers:
- (2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander or lieutenant of Her Majesty's Navy on full pay:

(Part IV.—Courts-Martial. Sec. 58.)

- (5) A court-martial shall not be held unless at least three of Her Majesty's ships, not being tenders, and commanded by captains, commanders, or lieutenants of Her Majesty's Navy on full pay, are together at the time when such court-martial is held:
- (4) No officer shall sit on a court-martial who is under twenty-one years of age:
- (5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank:
- (6) No court-martial for the trial of a captain in Her Majesty's Navy shall be duly constituted unless the president is a captain, or of higher rank, and the other officers composing the court are commanders, or officers of higher rank:
- (7) No court-martial for the trial of any person below the rank of captain in Her Majesty's Navy shall be duly constituted unless the president is a captain, or of higher rank, nor unless in addition to the president there are two other members of the court of the rank of commander, or of higher rank:
- (8) The prosecutor shall not sit on any court-martial for the trial of a prisoner whom he prosecutes:
- (9) The Admiralty shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of Her Majesty's Navy on full pay, authorizing him to order courts-martial to be held for the trial of such offences:
- (10) An officer holding a commission from the Admiralty to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself, on full pay and in command of one or more of Her Majesty's ships or vessels, although such last-mentioned officer may not hold a commission to order courts-martial; and in such a case such last-mentioned officer may order a court-martial although he does not hold any commission for the purpose.
- (11) If any officer holding a commission from the Admiralty to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be recalled, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the Admiralty, have the same power to

(Part IV.—Courts-Martial. Sec. 58.)

order courts-martial as the first-mentioned officer was invested with:

- (12) If any officer holding a commission from the Admiralty to order courts-martial, and having the command of any fleet or squadron of Her Majesty's ships in foreign parts, shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower in the first-mentioned case the commanding officer of the squadron or detachment ordered on such separate service, and, in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of Her Majesty's ships on the division of the station from which he is absent, to order court-martial during the time of such separate service, or during his absence from that division of the station (as the case may be); and every such authority shall continue in force until revoked, or until the officer holding it returns to the United Kingdom, or until he comes into the presence of a superior officer empowered to order courts-martial in the same squadron, detachment or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires:
- (13) The officer ordering a court-martial shall not sit thereon:
- (14) The president of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president:
- (15) No commander or lieutenant shall be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be holden (but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander or lieutenant being required to sit, or sitting, thereon, under any circumstances); and when any commander or lieutenant sits on any court-martial, the members of it shall not exceed five in number:
- (16) Subject to the foregoing regulations, whenever a court-martial shall be held, the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where

(Part IV.—Courts-Martial. Secs. 59-62.)

the court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete; subject to this proviso, that the admirals and captains being superintendent of Her Majesty's dockyards shall not be summoned to sit on courts-martial unless specially directed to do so by orders from the Admiralty.

Proceedings of Courts-martial.

Courts-martial where to held.

As to time of sittings of courts-martial.

Penalty on members absenting themselves.

Appointment of officiating judge advocate.

Administration of oaths to witnesses.

Objections by prisoners to construction of courts.

59. A court-martial under this Act shall be held on board one of Her Majesty's ships or vessels of war.

60. A court-martial held in pursuance of this Act shall sit from day to day with the exception of Sundays, until sentence is given, unless prevented from so doing by stress of weather or unavoidable accident, and its proceedings shall not be delayed by the absence of any member, so that not less than four are present;

and no member shall absent himself unless compelled so to do by sickness or other just cause to be approved of by the other members of the court, and if any member of a court-martial shall absent himself therefrom in contravention of this section he shall be dismissed from Her Majesty's service or shall suffer such other punishment as may be awarded by a court-martial.

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the Admiralty, or by the commander-in-chief of any fleet or squadron, the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

62. As soon as the court is assembled, the names of the officers composing the court shall be read over to the prisoner, who shall be asked if he objects to being tried by any member of the court; if the prisoner shall object to any member, the objection shall be decided by the court; if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial, subject to the regulations herein-before contained.

The prisoner may then raise any other objection which he desires to make respecting the constitution of the court-martial, and the objection shall then be decided by the court, which decision shall be final; and the constitution of the court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted.

(Part IV.—Courts-Martial. Secs. 63-66.)

63. Before the court shall proceed to try the prisoner, the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the court the following oath; that is to say,

Oaths to be administered to members of courts-martial.

‘I, _____, do swear, that I will duly administer justice according to law, without partiality, favour, or affection; and I do further swear, that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law. So help me GOD.’

64. As soon as the said oath shall be administered to the members of the court-martial the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate, the following oath:

Oath to be administered to judge advocate, etc.

‘I, _____, do swear, that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless thereunto required in due course of law. So help me GOD.’

65. The Admiralty may from time to time frame general orders for altering and regulating (subject to the provisions of this Act) the procedure and practice of courts-martial under this Act;

Power to Admiralty to frame general orders for practice of courts-martial, subject to approval by Her Majesty in Council.

and any such general orders shall have full effect if and when approved by Her Majesty in Council, on a report of the Judicial Committee of the Privy Council, but not sooner or otherwise;

and every Order in Council made under this section shall be laid before both Houses of Parliament.

66. Every person, civil, naval and military, who may be required to give evidence before a court-martial, shall be summoned by writing under the hand of one of the secretaries of the Admiralty, or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial;

Summoning witnesses.

and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness was arrested, or if such court be not sitting, then by any judge of the Superior Courts of Westminster, or Dublin, or the Court of Session in Scotland, or of the courts of law in the East or West Indies or elsewhere, according as the case shall require, upon its being made to appear to such court or judge, by any affidavit in a summary way,

(Part IV.—Courts-Martial. Secs. 67-68.)

that such witness was arrested in going to or returning from or attending upon such court-martial;

and all witnesses so duly summoned as aforesaid who make default in attending on such courts, or attending refuse to be sworn or make affirmation, or being sworn or having made affirmation refuse to give evidence, or to answer all such questions as the court may legally demand of them, or prevaricate in giving their evidence, shall upon certificate thereof under the hand of the president of such court-martial be liable to be attached in the Court of Queen's Bench in London or Dublin, or the Court of Session, or sheriff depute or stewarts depute, or their respective substitutes, within their several shires and stewartries in Scotland or courts of law in the East or West Indies, or in any of Her Majesty's colonies, garrisons, or dominions in Europe or elsewhere, respectively, upon complaint made, in like manner as if such witness after having been duly summoned and subpoenaed had neglected to attend on a trial in any proceeding in the court in which such complaint is made, or had refused to be sworn or on being sworn had refused to give evidence, or to answer all such questions as the court may legally demand, or had prevaricated in giving evidence, or, if the court-martial shall think fit, in case any such person belong to Her Majesty's Navy, being called upon to give evidence at any court-martial, shall refuse or neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence, or behave with contempt to the court, such court-martial may punish every such offender by imprisonment, not longer than three months in case of such refusal, neglect, or prevarication, nor longer than one month in the case of such contempt;

and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the Admiralty, or of the president of the court-martial on a foreign station.

Penalty on
persons giving
false evidence.

67. Every person who upon any examination upon oath or upon affirmation before any court-martial held in pursuance of this Act shall wilfully and corruptly give false evidence shall be deemed guilty of wilful and corrupt perjury; and every such offence, wheresoever committed, shall be triable and punishable in England; and where any such offence committed out of England is tried in England, all statutes and laws applicable to cases of perjury shall apply to the case.

Custody of
persons found
insane at
trial.

68. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict

(Part IV.—*Courts-Martial*. Sec. 69. Part V.—*Penal Servitude and Prisons*. Sec. 70.)

custody in such place and in such manner as the court shall deem fit until the directions of the Admiralty thereupon are known; and it shall be lawful for the Lords of the Admiralty to give orders for the safe custody of such person during Her Majesty's pleasure in such place and in such manner as they shall think fit.

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the commander-in-chief or senior officer, who shall transmit them to the secretary of the Admiralty for the time being; Reports of proceedings of courts-martial to be transmitted.

and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence at any time not sooner than six months after the trial if the same takes place in the Mediterranean, three months if at any other naval station within Europe, and twelve months if elsewhere (upon payment for the same at the rate of four pence per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court. Persons tried entitled to copies of proceedings.

PART V.

PENAL SERVITUDE AND PRISONS.

Penal Servitude.

70. Where a person is in pursuance of this Act convicted by a court-martial, and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in the United Kingdom of an offence punishable by penal servitude and sentenced by that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly; Sentence of penal servitude.

and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in the United Kingdom can be confined either permanently or temporarily, and the order of the Admiralty or of the Commander-in-chief, or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for his detention in naval custody or in any civil prison or place of confinement.

71. [*Rep. 47 & 48 Vict., c. 39, s. 8.*]

(Part V.—Penal Servitude and Prisons. Secs. 72-74.)

Subsistence
of offender.

72. In case any such offender shall be conveyed to any prison not being a naval prison appointed by virtue of this Act, an allowance such as the Admiralty shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender during his detention therein, and such allowance shall be paid by order of the Admiralty upon production by the said governor, keeper, or superintendent of a declaration, to be made by him before one of Her Majesty's justices of the peace of such county, of the number of days during which the offender has been so detained and subsisted in such gaol or prison.

Imprison-
ment of
offender under
sentence for
previous
offence.

73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of imprisonment or of penal servitude passed upon him by a court-martial for a former offence, the court may award sentence of imprisonment or penal servitude for the offence for which he is under trial, to commence at the expiration of the imprisonment or penal servitude to which he has been previously sentenced, although the aggregate of the terms of imprisonment or penal servitude may exceed the term for which either of those punishments could be otherwise awarded:

Provided that nothing in this section shall cause a person to undergo imprisonment for any period exceeding two consecutive years, and so much of any term of imprisonment imposed on a person by a sentence in pursuance of this section as would prolong his imprisonment beyond that period shall be deemed to be remitted.

Prisons.

Term and
place of im-
prisonment.

74. (1) Every term of penal servitude or of imprisonment in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of imprisonment, whether the imprisonment was awarded as an original or as a commuted punishment shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the Admiralty, or by the Commander-in-Chief or senior officer present on any foreign station, and may be one of the naval prisons appointed under this Act, or any common gaol, house of correction, or military prison within Her Majesty's dominions.

(2) Where, by reason of a ship being at sea or off a place at which there is no proper prison, a sentence of imprisonment cannot be duly executed, then, subject as herein-after mentioned, an offender under sentence of imprisonment may be sent with all reasonable speed to some place at which there is a proper prison in which the sentence can be duly executed, and on arrival there the offender shall undergo his sentence, in like manner as if the date of such arrival were the day on which the sentence was awarded, and that notwith-

(Part F.—Penal Servitude and Prisons. Secs 75-76)

standing that in the meanwhile he has returned to his duty or become entitled to his discharge; and the term of imprisonment shall be reckoned accordingly, subject, however, to the deduction of any time during which he has been kept in confinement in respect of the said sentence.

(3) Where in pursuance of this Act a person is sentenced to imprisonment, the order of the Admiralty or of the Commander-in-Chief, or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment, there to undergo his sentence according to law, and until he reaches such place of imprisonment, for his detention in naval custody, or in any civil prison or place of confinement.

75. Whenever it is deemed expedient it shall be lawful for the Admiralty or any such Commander-in-chief, by any order in writing, from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act; Place of imprisonment may be changed, &c.

and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison;

and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction shall, upon being furnished with a copy of such order of removal, attested by the Secretary of the Admiralty for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender.

76. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding one shilling a mile; Expenses of removal or subsistence of prisoners.

and when any offender is not confined in a naval prison, the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the Admiralty shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence;

and such sum shall be paid to the said gaoler or other person under the authority of the Admiralty, upon the application in writing made to the Secretary of the Admiralty by any justice for the county or place in which such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the prisoner is confined.

77. [*Rep. 47 & 48 Vict., c. 39, s. 8.*]

(Part V.—Penal Servitude and Prisons. Secs. 78-81.)

Proviso for
discharge or
removal of
prisoners.

78. Whenever any prisoner is undergoing imprisonment in pursuance of this Act, it shall be lawful for the Admiralty, or any Commander-in-Chief on any foreign station, or where an offender has been imprisoned by order of his commanding officer, for such commanding officer or the Admiralty, or any such Commander-in-Chief, to give an order in writing directing that the prisoner be discharged;

and it shall also be lawful for the Admiralty, or any such Commander-in-Chief, and any officer commanding any of Her Majesty's ships, by order in writing, to direct that any such prisoner be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness or for trial, or otherwise; and such prisoner shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

Proviso as to
time of deten-
tion in naval
custody.

79. The time during which any prisoner under sentence of imprisonment is detained in naval custody shall be reckoned as imprisonment under his sentence, for whatever purpose such detention takes place; and the governor, gaoler, keeper, or superintendent who shall deliver over any such prisoner shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

In case of
insanity, pris-
oners to be
removed to
some lunatic
asylum.

80. If any person imprisoned by virtue of this Act shall become insane and a certificate to that effect shall be given by two physicians or surgeons, the Admiralty shall by warrant direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in the United Kingdom as they may judge proper for the unexpired term of his imprisonment; and if any such person shall in the same manner be certified to be again of sound mind, the Admiralty may issue a warrant for his being removed to such prison or place of confinement as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, goal, or house of correction shall receive him accordingly.

Admiralty
may set apart
buildings and
ships as naval
prisons.

81. (1) The Admiralty may set apart any buildings or vessels, or any parts thereof, as naval prisons, and any buildings or vessels or parts of buildings or vessels so set apart shall be deemed to be naval prisons within the meaning of this Act.

(2) The Admiralty shall have the same power and authority in respect to naval prisons as one of Her Majesty's Principal Secretaries of State has in relation to military prisoners under section one hundred and thirty-three of the Army Act, and that section shall apply as if it were herein re-enacted with the substitution of "the Admiralty" for "a Secretary of State" and of "naval" for "military," and rules and regulations may be made accordingly by the Admiralty.

(Part V.—Penal Servitude and Prisons. Secs. 82-83.)

82. If any person shall convey or cause to be conveyed into any such naval prison any arms, tools, or instruments, or any mask or other disguise, to facilitate the escape of any prisoner, or by any means whatever shall aid any prisoner to escape or in an attempt to escape from such prison, whether an escape be actually made or not, such person shall be deemed guilty of felony, and upon being convicted thereof shall be imprisoned with or without (hard labour, for any term not exceeding two years, or suffer penal servitude for any term not exceeding fourteen years;

Penalties for aiding escape or attempt to escape of prisoners, and on breach of prison regulations.

and if any person shall bring or attempt to bring into such prison, in contravention of the rules, any spirituous or fermented liquor, he shall, for every such offence be liable to a penalty not exceeding twenty pounds and not less than ten pounds;

and if any person shall bring into such prison, or to or for any prisoner, without the knowledge of the officer having charge or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison to be in the possession of a prisoner, or shall throw into the said prison any such articles, or by desire of any prisoner, without the sanction of the said officer, shall carry out of the prison any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding five pounds;

and if any person shall interrupt any officer of such prison in the execution of his duty, or shall aid or excite any person to assault, resist, or interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding five pounds, or if the offender be a prisoner, he shall, upon conviction thereof before two justices of the peace, or not less than three of the visitors of the prison, be liable to be sentenced for every such offence to be imprisoned, either with or without hard labour and with or without solitary confinement, for any time not exceeding six calendar months in addition to so much of the time for which he was originally sentenced as may be then unexpired;

and every penalty which may be incurred under this section shall be recoverable in a summary manner;

and such two justices or three visitors are hereby authorised to issue warrants of distress and sale of the offender's goods; and every such penalty shall be applied as the Admiralty shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

83. Every governor, gaoler, and keeper of any prison, gaol, or house of correction, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall, without lawful excuse, refuse or

Penalty on gaolers, etc. refusing to receive or

(Part VI.—Supplemental Provisions. Secs. 84-88.)

discharge
prisoners.

neglect to receive or confine, remove, discharge or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one hundred pounds, to be recovered in a summary manner before two justices of the peace;

Recovery and
application of
penalties.

and such two justices are hereby authorized to issue warrants of distress and sale of the offender's goods; and every such penalty shall be applied as the Admiralty shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

PART VI.

SUPPLEMENTAL PROVISIONS.

Short title.

84. This Act may be cited for all purposes as *The Naval Discipline Act.*^{*1}

Commence-
ment of Act.

85. Except as otherwise provided, this Act shall be in force within the United Kingdom; [and as regards the United Kingdom the enactments described in the schedule to this Act shall be repealed from and after one calendar month from the passing hereof;]² and as regards elsewhere this Act shall be in force [and the said enactment shall be repealed]² from and after six calendar months from the passing hereof.

Interpretation
of terms.

86. In the construction of this Act, unless there be something in the context or subject matter repugnant to or inconsistent with such construction,

* * * * *

“Officer” shall mean an officer belonging to one of Her Majesty's ships and shall include a subordinate and a warrant officer, but shall not extend to petty and non-commissioned officers:

When the words “superior officer” are used in this Act, they shall be held to include all officers, including petty and non-commissioned officers.

Persons sub-
ject to this
Act.

87. Every person in or belonging to Her Majesty's Navy, and borne on the books of any one of Her Majesty's ships in commission, shall be subject to this Act;

and all other persons hereby made liable thereto shall be triable and punishable under the provisions of this Act.

Land forces
embarked on
Her Majesty's
ships, how far
subject to this
Act.

88. Her Majesty's land forces, when embarked on board any of Her Majesty's ships, shall be subject to the provisions of this Act to such extent and under such regulations as Her Majesty, her heirs and successors, by any Order or Orders in Council, shall at any time or times direct.

¹ The figures “1866,” repealed by 47 & 48 Vict., c. 39, s. 8, have been omitted.

² The words in square brackets were repealed as to the U. K. by 56 & 57 Vict., c. 14 (S.L.R.)

(Part VI.—Supplemental Provisions. Sects. 89-91.)

89. All other persons ordered to be received or being passengers on board any of Her Majesty's ships shall be deemed to be persons subject to this Act, under such regulations as the Admiralty may from time to time direct.

Other persons on board, how far subject to this Act.

90. With respect to hired vessels in Her Majesty's service in time of war, being either armed or under the command of an officer in Her Majesty's naval service, the following provisions shall take effect if in any case the Admiralty think fit so to direct, and where such direction is given the same shall be specified in the ship's articles:

Provisions respecting discipline in hired ships in Her Majesty's service in war.

- (1) Every person borne on the books of any such hired vessel shall be subject to this Act:
- (2) Any offence committed by any such person shall be tried and punished as the like offence might be tried and punished if committed by any person in or belonging to Her Majesty's Navy, and borne on the books of any of Her Majesty's ships in commission:
- (3) Every such offender who is to be tried by court-martial shall be placed under all necessary restraint until he can be tried by court-martial:
- (4) On application made to the Lords of the Admiralty, or to the Commander-in-Chief or senior officer of any of Her Majesty's ships or vessels of war abroad authorized to assemble and hold courts-martial, the Lords of the Admiralty, Commander-in-Chief, or senior officer (as the case may be) shall assemble and hold a court-martial, for the trial of the offender:
- (5) The officer commanding every such hired vessel shall have the same power in respect of all other persons borne on the books thereof, or for the time being on board the same, as the officer commanding one of Her Majesty's ships has for the time being in respect of the officers and crew thereof, or other persons on board the same:
- (6) The naval Commander-in-Chief and senior naval officer in Her Majesty's service shall have the same powers over the officers and crew of every such hired vessel as they have for the time being over the officers and crew of any of Her Majesty's ships.

91. When any one of Her Majesty's ships shall be wrecked or lost or destroyed, or taken by the enemy, such ship shall, for the purposes of this Act, be deemed to remain in commission until her crew shall be regularly removed into some other of Her Majesty's ships of war, or until a court-martial shall have been held, pursuant to the custom of the navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship.

Crews of ships lost or destroyed.

(Part VI.—Supplemental Provisions. Secs. 92-97.)

All the officers
and crew of
lost ship may
be tried by
one court;

92. When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction or capture, it shall be lawful to try all the officers and crew or all the surviving officers and crew of any such ship, together before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the matters then under inquiry;

but no officer or seaman or other person shall be obliged to give any evidence which may tend to incriminate himself.

or by separate
courts.

93. When deemed necessary by the Admiralty, or any officer authorized to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction or capture of any such ship.

For subse-
quent offence,
separate court.

94. For any offence or offences committed by any officer or seaman, or officers and seamen, after the wreck, loss, destruction, or capture of any such ship, a separate court-martial shall be held for the trial of such offender or offenders.

Pay of crews
of ships lost
or taken.

95. When any ship of Her Majesty shall be wrecked, lost, or otherwise destroyed, or taken by the enemy, if it shall appear by the sentence of a court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well, and been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other ships of Her Majesty, or dying.

When ship
of senior
officer is lost,
he may dis-
pose of officers
and crew of
lost ship.

96. If the ship of any officer ordered to command any two or more of Her Majesty's ships shall be wrecked, lost, or otherwise destroyed, such officer shall continue in the command of any ship or ships which at the time of his ship being wrecked, lost, or destroyed was or were under his command;

and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ship to join any other ship under his command or to distribute them among the other ships under his command, if more than one;

and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respect as if his ship had not been wrecked, lost, or destroyed.

Restriction
on arrest of

97. It shall not be lawful for any person to arrest any petty officer or seaman, non-commissioned officer of marines or marine, belonging to any ship

(Part VI.—*Supplemental Provisions. Sec. 98. Part VII.—Saving Clause. Secs. 100-101.*)

of Her Majesty, by any warrant, process, or writ issued in any part of Her Majesty's dominions for any debt, unless the debt was contracted at a time when the debtor did not belong to Her Majesty's service, nor unless before the issuing of the warrant, process, or writ the plaintiff in the suit or some person on his behalf has made an affidavit in the court out of which it issued that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to Her Majesty's service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ. seamen, etc.
for debt.

98. If any petty officer or seaman, non-commissioned officer of marines or marine, is arrested in contravention of the provisions of the last foregoing section, the court out of which the warrant, process, or writ issues, or any judge thereof, may, on complaint by the party arrested, or by his superior officer, investigate the case on oath or otherwise, and if satisfied that the arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour, with costs. Discharge
from arrest.

PART VII.

SAVING CLAUSE.

99. [*Rep. 38 & 39 Vict., c. 66 (S. L. R.).*]

100. Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of her Crown, or in right of her office of Admiralty, or any right or power of the Admiralty. Nothing to
take away
prerogative of
the Crown,
or rights of
powers of
Admiralty.
Act not to
supersede
Authority of
ordinary
courts as to
offences
punishable
by common
or statute law.

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in Her Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognizable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act. Act not to
supersede
Authority of
ordinary
courts as to
offences
punishable
by common
or statute law.

Schedule

[*Rep. as to U. K. 56 & 57 Vict., c. 14 (S. L. R.). Omitted as being spent.*]

(Secs. 1-4.)

THE STRAITS SETTLEMENTS ACT, 1866.

(29 & 30 Vict., c. 115.)

An Act to provide for the Government of the "Straits Settlements".

[10th August, 1866.]

[Preamble.]

1. [Providing that, at a time to be specified by Order in Council,¹ the Straits Settlements shall cease to be part of India, rep. as to U. K. 56 & 57 Vict., c. 14 (S. L. R.). Omitted as being inapplicable to India.]

Power to Her Majesty in Council to make laws, constitute courts, etc.

2. * * * * it shall be lawful for Her Majesty, by Order or Orders to be by her from time to time made with the advice of her said Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such courts and officers, and to make such provisions and regulations for the proceedings in such courts, and for the administration of justice, and for the raising and expenditure of the public revenue, as may be deemed advisable for the peace, order, and good government of Her Majesty's subjects and others within the said settlements, or within any territory which may at any time be part of or dependent upon the same, any law, statute, or usage to the contrary in anywise notwithstanding.

Power to Her Majesty to delegate her powers and authorities to resident officers, and also her powers and authorities as to Labuan.

3. It shall be lawful for Her Majesty, from time to time, by any letters patent under the Great Seal of the United Kingdom, or by any instructions under Her Majesty's Signet and Sign Manual accompanying and referred to in any such letters patent, to delegate to any three or more persons within the said settlements, or within any part or dependency thereof, the powers and authorities so vested in Her Majesty in Council as aforesaid, either in whole or in part, and upon, under, and subject to all such conditions, provisos, and limitation, as by any such letters patent or instructions as aforesaid Her Majesty shall see fit to prescribe, and, subject as aforesaid, to empower such three or more persons to exercise in respect to the Island of Labuan and its dependencies all or any of the powers and authorities herein-before vested in Her Majesty in respect to the said settlements:

Provided always that notwithstanding any such delegation or grant of authority as aforesaid, it shall still be competent to Her Majesty in Council in manner aforesaid to exercise all the powers and authorities, either by virtue of this Act or otherwise, vested in Her Majesty in Council.

Existing laws and officers preserved.

4. Until otherwise provided by Her Majesty in Council, or by such three or more persons as aforesaid, all laws or regulations (except the aforesaid Act

¹ By Order in Council, dated 23th December, 1866, the Act was brought in to operation as from 1st April, 1867.

(Sec. 1.)

of Parliament) which, when this Act shall come into operation, shall be in force in the said settlements and their dependencies and all proceedings of any court of justice had or to be had therein, shall be and continue to be of the same force and effect * * * * * as if this Act had not been passed.

THE INDIAN RAILWAY COMPANIES ACT, 1868.

(30 & 31 Vict., c. 26.)

An Act to enable certain guaranteed Indian Railway Companies to raise money on Debenture Stock.

[29th May, 1868.]

WHEREAS the railway companies severally known as the Great Indian Peninsula Railway Company, the East Indian Railway Company, the Madras Railway Company, the Bombay, Baroda, and Central India Railway Company, the Scinde Railway Company, the Eastern Bengal Railway Company, and the Oudh and Rohilcund Railway Company, Limited, were constituted and incorporated by Acts of Parliament, or by certificate under Act of Parliament, for the purpose of constructing, maintaining, and working railways in India; and the said companies have, under powers vested in them by their Acts or otherwise vested in them, entered into terminable contracts and arrangements with the East India Company, or with the Secretary of State in Council of India, with respect to their undertakings, and they have in exercise of such powers, with the sanction of the East India Company, or the Secretary of State in Council of India, raised capital by the issue of shares or stock, and have borrowed money for their undertakings on the security of mortgages or bonds:

1. Each of the said companies may from time to time, with the sanction of the Secretary of State in Council of India, and of three-fifths of the votes of its shareholders and stock-holders entitled to vote in that behalf at meetings of the company, present in person or by proxy at any extraordinary meeting convened with notice of this purpose, raise all or any part of the money which for the time being the company has raised or is authorized to raise on mortgage or bond by the creation and issue at such times, in such amounts and manner, on such terms, at such price, subject to such conditions and with such rights and privileges, as the Secretary of State in Council of India shall think fit, of stock to be called debenture stock, instead of and to the same amount as the whole or any part of the money which may for the time being

Power to Indian railway companies to create and issue debenture stock, in lieu of borrowing on mortgage or bond.

(Sec. 2.)

be owing by the company on mortgage or bond or which the company may from time to time have power to raise on mortgage or bond, and may, with such sanction of its share-holders and stock-holders as aforesaid, attach to the stock so created such fixed and perpetual, irredeemable, redeemable, variable, or other interest, at such rate, payable half-yearly or otherwise, and commencing at once or at any future time or times, when and as the debenture stock shall be issued or otherwise, as the Secretary of State in Council of India shall think fit.

Provisions applicable to debenture stock.

2. All the provisions following shall apply to every case of one of the said companies exercising the power herein-before given for raising money by the reation and issue of debenture stock; (that is to say,)

1. The debenture stock, with the interest thereon, shall be a charge upon the undertaking of the company prior to all other stock or shares of the company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the company, and shall in all other respects have the incidents of personal estate.
2. The interest on debenture stock shall have priority of payment over all dividends or interest on any other stock or shares of the company, and shall rank next to the interest payable on the mortgages or bonds for the time being of the company legally granted before the creation of such stock, but the holders of debenture stock shall not as among themselves be entitled to any preference or priority.
3. The company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled; and any instalments by which the price or subscription for any debenture stock may be made payable shall be recoverable as calls are recoverable under "The Companies Clauses Consolidation Act, 1845."
4. The company shall deliver to every holder of debenture stock a certificate stating the amount of debenture held by him, and all regulations or provisions for the time being applicable to certificates of shares in the capital of the company shall apply, mutatis mutandis, to certificates of debenture stock.
5. Nothing herein contained shall in any way affect any mortgage or bond at any time legally granted by the company before the creation of such stock, or any power of the company to raise money on mortgage or

Recovery of instalments by which the price is made payable.

Company to deliver certificates to holders.

Mortgagees, or power of raising by mortgage

(Sec. 2.)

bond, so far as such power is not by this Act expressly extinguished; money not raised under this Act, not to be affected. but the holders of all such mortgages and bonds shall during the continuance thereof respectively be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if this Act had not been passed.

6. The debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the company, or confer any qualification with reference to the government thereof, but shall in all respects not otherwise by this Act provided for be considered as entitling the holders to the rights and powers of mortgagees of the undertaking, other than the right to require payment of the principal money paid up in respect of the debenture stock: Provided always, that if on the issue of any such stock the company shall have agreed to repay the principal money at a fixed time, the holders thereof shall be entitled to be repaid their principal money at such fixed time. Holders of stock not to vote, but to have rights of mortgagees, except right to repayment of principal, unless the company agree to repay at a fixed time.
7. The money raised by debenture stock shall be applied exclusively either in paying off money due by the company on mortgage or bond, or else for the purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock: Provided always, that the receipt, disposal, and application of all monies raised by the debenture stock shall be at all times and in all respects subject to the supervision, direction, and control of the Secretary of State in Council of India. Application of money raised, subject to supervision of Secretary of State.
8. Separate and distinct accounts shall be kept by the company, showing how much money has been received for or on account of debenture stock, and how much money borrowed or owing on mortgage or bond for which they have power so to borrow has been paid off by debenture stock, or raised thereby instead of being borrowed on mortgage or bond. Separate accounts to be kept.
9. The powers of borrowing and reborrowing by the company shall to the extent of the nominal amount of the debenture stock for the time being issued be extinguished. Borrowing powers extinguished to extent of amount of debenture stock issued.

(Secs. 1-3.)

THE DOCUMENTARY EVIDENCE ACT, 1868.

(31 & 32 Vict., c. 37.)

An Act to amend the Law relating to Documentary Evidence in certain cases.

[25th June, 1868.]

[Preamble.]

Short title.

1. This Act may be cited for all purposes as "The Documentary Evidence Act, 1868."

Mode of
proving cer-
tain docu-
ments.

2. Prima facie evidence of any proclamation, order, or regulation issued before or after the passing of this Act by Her Majesty, or by the Privy Council, also of any proclamation, order or regulation issued before or after the passing of this Act by or under the authority of any such department of the Government or officer as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or any of the modes herein-after mentioned; that is to say:

- (1) By the production of a copy of the Gazette purporting to contain such proclamation, order or regulation.
- (2) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government printer, or where the question arises in a court in any British colony or possession, of a copy purporting to be printed under the authority of the legislature of such British colony or possession.
- (3) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the lords or others of the Privy Council and in the case of any proclamation, order, or regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

Act to be in
force in
colonies.

3. Subject to any law that may be from time to time made by the legislature of any British colony or possession, this Act shall be in force in every such colony and possession.

(Secs. 4-6.)

4. If any person commits any of the offences following; that is to say,—
- (1) Prints any copy of any proclamation, order, or regulation which falsely purports to have been printed by the Government printer or to be printed under the authority of the legislature of any British colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or,

Punishment
for forgery, or
knowingly
tendering
forged docu-
ments in
evidence.

- (2) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order or regulation;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude. * * * * *

5. The following words shall in this Act have the meaning herein-after assigned to them unless there is something in the context repugnant to such construction; (that is to say,) Interpre-
tation.

“British colony and possession” shall for the purposes of this Act include the Channel Islands, the Isle of Man and such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of India, and all other Her Majesty’s dominions.

“Legislature” shall signify any authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony or possession.

“Privy Council” shall include Her Majesty in Council and the lords and others of Her Majesty’s Privy Council, or any of them, and any committee of the Privy Council that is not specially named in the schedule hereto.

“Government printer” shall mean and include the printer to Her Majesty, and any printer purporting to be the printer authorized to print the statutes, ordinances, acts of state, or other public acts of the legislature of any British colony or possession, or otherwise to be the Government printer of such colony or possession.

“Gazette” shall include the London Gazette, the Edinburgh Gazette, and the Dublin Gazette, or any of such Gazettes.

6. The provisions of this Act shall be deemed to be addition to, and not in derogation of, any powers of proving documents given by any existing statute or existing at common law. Provisions of
Act to be
cumulative.

SCHEDULE.

Column 1. Name of Department or Officer.	Column 2. Names of Certifying Officers.
The Commissioners of the Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the office of Lord High Admiral.	Any of the Commissioners for executing the office of Lord High Admiral, or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under-Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade, or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board.	Any Commissioner of the Poor Law Board, or any Secretary or Assistant Secretary of the said Board.

THE INDIAN PRIZE MONEY ACT, 1868.

(31 & 32 Vict., c. 38.)

An Act for the Appropriation of certain unclaimed Shares of prize Money acquired by Soldiers and Seamen in India.

[25th June, 1868.]

Shares of prize money placed to credit of revenues of India, in England or India, subject to be refunded to persons establishing claims there-to.

1. All and every shares and share of booty, prize money, head money, bounty money, and salvage money, and of money arisen or which shall hereafter arise from, or which is now or shall hereafter be distributable in respect of, any capture or other warlike service whatsoever which has heretofore been or shall hereafter be made or performed, and to which shares or share any officer, soldier, sailor, or other person at any time in or belonging or having belonged to the forces of the East India Company, to Her Majesty's Indian staff corps, or to Her Majesty's local Indian forces, European or native, is now or shall hereafter be entitled, in whatsoever service the same may have been acquired, and which shares or share have come into and are now remaining in the hands, or shall hereafter come into the hands, of any prize agent or agents, or any other person whomsoever, shall be paid, according to the residence of

(Secs. 2-3.)

the party or parties paying the same, either in London into the Bank of England to the account of the Secretary of State in Council of India, or in India into such places and in such manner as the Government in India shall direct;

and all sums of money when so paid shall be placed to the credit of the revenues of India, and shall for all purposes form part of such revenues and be applicable in all respects as such revenues are or shall be applicable; subject, nevertheless, to be refunded, without interest, to any person or persons entitled to the same, and establishing his, her, or their claim or claims thereto to the satisfaction of the Secretary of State in Council of India.

2. * * * * all money which shall hereafter come into the hands of any prize agent or prize agents, or any other person or persons whomsoever, and which is hereby directed to be paid and be placed to the credit of the revenues of India, whether the same shall be to be paid in England or in India, shall be paid within two calendar months next after the receipt thereof by such prize agent or agents or other person or persons.

Time within which payment is to be made.

3. The Secretary of State in Council of India shall have and may exercise the same or the like powers, rights, and remedies, so far as the same shall be applicable, for discovery and recovery of and otherwise in relation to or in respect of the monies hereby directed to be paid and to be placed to the credit of the revenues of India, as the Commissioners or the Treasurer for the time being of Chelsea Hospital, or the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral, or any other persons or person, or any corporation entitled to or interested in any prize money acquired by or due to any officers, soldiers, or seamen in or belonging to Her Majesty's European military or naval forces, have or can exercise, by virtue of any Act or Acts now in force for the discovery or recovery of or otherwise in relation to or in respect of such last-mentioned prize money; and all courts of law and equity and of Admiralty jurisdiction in the United Kingdom and in India shall have and may exercise the same or the like jurisdiction, powers and authorities, for compelling every person to account for and pay over the moneys hereby directed to be paid and be placed to the credit of the revenues of India, as any court of law or equity or of Admiralty jurisdiction may now exercise with respect to any prize money acquired by or belonging to any such officers, soldiers or seamen as last aforesaid; and every person who is required by this Act to pay over any share or shares shall be subject to the like liability to account for the same, and to the like fines and penalties for neglect or default in not accounting for the same and otherwise, as agents or other persons are by any Act or Acts now in force subject to in respect of any shares or balances of prize money acquired by or belonging to any such officers, soldiers, or seamen as last aforesaid.

Discovery and recovery of prize moneys.

(Secs. 4-5.)

The Consular Marriage Act, 1868. [31 & 32 Vict., c. 61.

Saving of
rights of
person to
recover
within six
years of pay-
ment, any
prize money
to which he
may be
entitled.

4. Nothing in this Act contained shall prevent any person or persons from resorting to any remedy at law or in equity against the Secretary of State in Council of India for the recovery of principal without interest of any money to which he or they may be entitled, and which shall be paid in manner herein-before directed, and placed to the credit of the revenues of India, provided such person or persons shall prefer his or their claim thereto to the Secretary of State in Council of India within six years from the respective times at which the same money shall be so paid as aforesaid.

Saving rights
or powers of
Secretary of
State.

5. Nothing herein contained shall take away or affect any right which the Secretary of State in Council of India now has, or if this Act had not been passed, would at any time have had, to or in respect of any monies hereby directed to be paid, nor shall diminish, abridge, or prejudice any rights, powers, or remedies which the Secretary of State in Council of India has, or if this Act had not been passed would have had, or could at any time have enforced for the discovery or recovery of the same monies or any of them.

THE CONSULAR MARRIAGE ACT, 1868.

(31 & 32 Vict., c. 61.)

An Act for removing Doubts as to the Validity of certain Marriages between British Subjects in China and elsewhere, and for amending the Law relating to the Marriage of British Subjects in Foreign Countries.

[16th July, 1868.]

WHEREAS by an Act of the session of the twelfth and thirteenth years of the reign of Her present Majesty, chapter sixty-eight, intituled "An Act for facilitating the marriage of British subjects resident in foreign countries," provision is made for the solemnization of marriages in foreign countries or places where there may be a British consul duly authorized in that behalf, between persons both or one of whom is or are a British subject or British subjects; and it is thereby enacted, that every British consul general and consul, appointed or to be appointed to reside in any foreign country or place, who shall be directed or authorized in writing under the hand of one of Her Majesty's Principal Secretaries of State to solemnize and register marriages, and any persons duly authorized to act in the absence of such consul shall, in the country or place in which he is so appointed to reside, or in which he is directed or authorized to solemnize or register marriages as aforesaid, be a consul duly authorized for all the purposes of the said Act:

(Secs. 1-3.)

31 & 32 Vict., c. 91.] *Sir Robert Napier's Annuity.*

And whereas marriages have been from time to time solemnized at certain places in China and elsewhere, between persons being both or one of them subjects or a subject of this realm, by persons acting temporarily as consuls in such places:

And whereas doubts are entertained as to the validity of the said marriage owing to a question having arisen whether the persons by whom the same were solemnized were duly authorized in that behalf; and it is expedient to remove such doubts as to the said marriages, and as to any marriages which may be celebrated in like manner after the passing of this Act:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as "The Consular Marriage Act, Short title. 1868."

2. All marriages solemnized before the passing of this Act (both or one of the parties thereto being subjects or a subject of this realm,) by or in the presence of any person acting or purporting to act in the place of a British consul, such consul being duly authorized to solemnize and register marriages according to the provisions of the said recited Act, shall be as valid in law as if the same had been solemnized by or in the presence of such British consul. Certain past marriages herein specified confirmed.

3. From and after the passing of this Act, every person acting or legally authorized to act in the place of a British consul, such consul being duly authorized to solemnize and register marriages between persons (both or one of them being a subject or subjects of this realm) shall be deemed to be a British consul duly authorized for all the purposes of the said recited Act. Acting consul to have power to solemnize marriages under recited Act.

SIR ROBERT NAPIER'S ANNUITY.

(31 & 32 Vict., c. 9.)

*An Act to settle an Annuity upon Lieutenant-General Sir Robert Napier, G. C. B., G. C. S. I., and the next surviving Heir Male of his Body in consideration of his eminent Services.*¹

[31st July, 1868.]

¹ has been thought sufficient to print the title of this Statute.

THE EAST INDIA IRRIGATION AND CANAL ACT, 1869.

(32 & 33 Vict., c. 7.)

An Act for the Confirmation and Execution of Arrangements made between the Secretary of State in Council of India and the East India Irrigation and Canal Company; and for other Purposes connected therewith.

[19th April, 1869.]

WHEREAS the East India Irrigation and Canal Company (in this Act and the schedule thereto called the company) were by the East India Irrigation and Canal Act, 1861, incorporated for the purposes therein mentioned, including the following; namely,—

The construction, improvement, maintenance, and management of works for the irrigation of land, combined, wherever such combination might be considered practicable and advantageous, with navigable canals, and of navigable canals, within the dominions of Her Majesty the Queen known as the East Indies, or in any of the adjacent states and territories:

The rendering navigable and improving the navigation of rivers or waters within such dominions, states, and territories:

The construction, improvement, maintenance, and management of works for the supply of water, and the supply of water to the Secretary of State in Council of India or the supreme or any of the local governments of India, or to any body or person:

The obtaining of all powers, the entering into all contracts, and the doing of all things expedient for or incidental, necessary, or conducive to the attainment of those purposes or any or either of them, either by the company alone, or jointly with any other company, or in conjunction with the Secretary of State in Council or the supreme or any of the local or native governments of India, or any other body or person;

with a proviso that only such of the purposes aforesaid should be carried into operation as should be agreed on between the company and the Secretary of State in Council or the supreme or any of the local governments of India:

And whereas by agreement with the Secretary of State in Council the company undertook the execution of a scheme of works for irrigation, navigation, and supply of water and other purposes in the districts and deltas of the rivers Mahanuddy, Byturny and Brahmany, in the province of Orissa and their affluents, and a main irrigation and navigable canal to connect those works with Calcutta, with subsidiary channels necessary to irrigate and accommodate with means of water transport the lands of the districts through which the

(Secs. 1-2.)

main canal would pass, which scheme of works is known as the Orissa undertaking:

And whereas by The East India Irrigation and Canal Act, 1866, provision was made to the effect that the Orissa undertaking should be deemed a separate undertaking of the company, and that the capital then already issued by the company should be appropriated for the purposes of that undertaking, and with all further capital which the company might thereafter issue for that undertaking, should be called the Orissa capital, and should be kept separate and distinct from the other capital of the company, and that the income to be derived from the outlay of that capital should be kept separate and distinct from the other income of the company:

And whereas by another agreement with the Secretary of State in Council the company undertook the execution of a scheme of works (similar in character to those of the Orissa undertaking) in the province of Behar starting from the Soane river, and embracing territory between that river and Chunar on the one side, and Patna on the other side, which scheme of works is known as the Behar undertaking, but no capital has been created in respect of that undertaking:

And whereas it having appeared to the Secretary of State in Council and to the company expedient that the company should transfer to the Secretary of State in Council the Orissa undertaking and the Behar undertaking and all the rights and interests of the company therein respectively, agreements for such transfer have been made on the terms appearing in the three instruments described in the schedule to this Act, and those instruments purport to carry into effect or to provide for such transfer; but doubts have been raised whether the company had power to enter into the said agreements, and it is expedient that provision be made by authority of Parliament for the execution thereof:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as The East India Irrigation and Canal Act, Short title. 1869.

2. The three several instruments described in the schedule to this Act (in Instruments described in schedule confirmed. this Act referred to as the scheduled instruments) are hereby confirmed as on and from their respective dates, and the same shall be, and shall as from those dates respectively be deemed to have been, valid as between the Secretary of State in Council and the company and binding on them respectively, and shall be carried into execution accordingly.

(Secs. 3-7.)

Certain receipts to discharge Secretary of State from liabilities.

3. A receipt under the common seal of the company, countersigned by the secretary of the company, for any money payable by the Secretary of State in Council to the company or the directors thereof, under the scheduled instruments or any of them, shall effectually discharge the Secretary of State in Council from the money therein expressed to be received, and from all liability in respect thereof;

and the Secretary of State in Council shall not be concerned to see to the application or responsible for any loss or misapplication thereof.

Application of money paid for Orissa undertaking.

4. The directors of the company shall hold all principal money by the first-mentioned of the scheduled instruments stipulated to be paid to them for and on behalf of the shareholders in the Orissa undertaking by the Secretary of State in Council, when the same is received by them and all interest received by them in respect thereof from the Secretary of State in Council, on trust to distribute the same among the holders of shares or stock in the Orissa capital, their executors, administrators, or assigns, rateably according to the amounts paid on or in respect of their shares or stock.

Who to be deemed shareholders.

5. The persons who appear in the books of the company to be proprietors of shares or stock in the Orissa capital shall, unless the contrary is proved to the satisfaction of the directors of the company, be considered to be holders of shares or stock in the Orissa capital for the purposes of the distribution of money in pursuance of this Act;

and where any share in the Orissa capital has been declared forfeited by the company, but has not been sold, the same shall for the purposes of the scheduled instruments, but not further or otherwise, be deemed to have reverted as on the twenty-seventh day of November one thousand eight hundred and sixty-eight to the persons to whom the same belonged at the time of forfeiture.

Receipts of executors, etc. effectual discharges

6. The receipt of an executor or administrator of a deceased holder of any share or stock in the Orissa capital, and the receipt of any person competent under the Acts relating to the company to give a discharge to the company for any money payable in respect of any such share or stock, shall be an effectual discharge to the company and to the directors thereof for any money payable under this Act in respect of any such share or stock and in any such receipt expressed to be received, and shall exonerate the company and the directors thereof from any obligation affecting the share or stock in respect of which such money is paid, or in anywise relating to that money.

Discontinuance of Orissa capital.

7. On receipt by the several holders of shares or stock in the Orissa capital of their respective proportions of the money distributable among them under the scheduled instruments or any of them, those several shareholders or stockholders (except such of them as are for the time being acting as members of

(The Schedule.)

a committee for executing any resolution passed by the company before the passing of this Act under or in contemplation of the scheduled instruments or any of them) shall respectively cease to be members of the company as holders of such shares or stock, and the shares or stock held by them shall be deemed to be extinguished, and the Orissa capital shall be reduced accordingly; and as soon as all money received by the directors of the company in respect of the Orissa undertaking under the scheduled instruments or any of them has been distributed in manner directed by the scheduled instruments or any of them or by this Act, and the affairs of the Orissa undertaking have been wound up, then by virtue of this Act the Orissa undertaking shall cease to be part of the undertaking of the company, and the Orissa capital shall cease to exist, and the holder of shares or stock therein excepted as aforesaid shall cease to be as such members of the company, and as from the passing of this Act so much of the nominal Orissa capital as is not subscribed for shall be deemed to be extinguished.

The SCHEDULE to which the foregoing Act refers.

INSTRUMENTS CONFIRMED.

1. Articles of agreement dated the 30th day of November, 1868, made between the Secretary of State in Council of the one part and the company of the other part, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K.C.B., G.C.S.I., two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the company.

2. An indenture dated the 21st day of December, 1868, made between the company of the one part and the Secretary of State in Council of the other part, being under the seal of the company, and under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K.C.B., G.C.S.I., two members of the Council of India, on behalf of the Secretary of State in Council.

3. Articles of agreement dated the 21st day of December, 1868, indorsed on the first-mentioned articles of agreement, and made between the same parties as those articles, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K.C.B., G.C.S.I., two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the company.

(Sec. 1.)

BISHOPRIC OF STRAITS SETTLEMENTS.

(32 & 33 Vict., c. 88.)

*An Act for the separation of the Straits Settlements from the Diocese of Calcutta.*¹

[9th August, 1869.]

WHEREAS by an Act of the session of the twenty-ninth and thirtieth years of the reign of Her present Majesty, chapter one hundred and fifteen, and by an Order in Council of the twenty-second day of December one thousand eight hundred and sixty-six, made in pursuance of the said Act, the islands and territories known as the "Straits Settlements," namely, Prince of Wales Island, the Island of Singapore, and the town and fort of Malacca, and their dependencies, ceased to be part of India for the purposes and within the meaning of an Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six:

Recital of 53
Geo. 3, c. 155,
and 3 & 4
Will. 4, c. 85.

And whereas by virtue of an Act passed in the session of the fifty-third year of the reign of King George the Third, chapter one hundred and fifty-five, and of another Act of the session of the third and fourth years of the reign of King William the Fourth, chapter eighty-five, and of letters patent under the great seal of the United Kingdom bearing date respectively the second day of May one thousand eight hundred and fourteen, the thirteenth day of June one thousand eight hundred and thirty-five and the first day of October one thousand eight hundred and thirty-seven, the said Straits Settlements were before the passing of the said first recited Act and still are part of the diocese of Calcutta, and subject to the metropolitan authority of the bishop of that diocese:

And whereas it is expedient that the said Straits Settlements should be separated from the said diocese and cease to be subject to such metropolitan authority:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Separation
of Straits
Settlements
from diocese
of Calcutta.

1. The said recited Acts of Parliament of the reigns of King George the Third and King William the Fourth and the said letters patent shall no longer apply to the said Straits Settlements;

and the said Straits Settlements shall from the passing of this Act cease to be part of the said diocese of Calcutta and to be subject to the metropolitan authority of the bishop of that diocese.

¹ Rep. as to U. K. 56 & 57 Vict., c. 54 (S. L. R.). Spent.

(Secs. 1-8.)

THE GOVERNMENT OF INDIA ACT, 1869.

(32 & 33 Vict., c. 97.)

An Act to amend in certain respects the Act for the better Government of India.

[11th August, 1869.]

[Preamble recites 21 & 22 Vict., c. 106.]

1. After the passing of this Act all vacancies that shall take place in the said Council shall be filled up by appointment by the Secretary of State. Vacancies in Council of India.
2. Every member of the said Council who shall, after the passing of this Act, be so appointed, shall be appointed for a term of ten years, and except as herein-after provided, shall not be re-eligible. Term of office
3. It shall be lawful for the Secretary of State to re-appoint for a further period of five years any person whose term of office as member of Council under this Act shall have expired, provided such re-appointment be made for special reasons of public advantage, which reasons shall be set forth in a minute signed by the said Secretary of State, and laid before both Houses of Parliament. Re-appointment of member for further period of five years.
4. Except as herein otherwise provided all the provisions of the said recited Act, and of any other Act of Parliament relating to members of the Council of India, shall apply to members appointed under the provisions of this Act. Former Acts to apply to future members.
5. [*Rep. as to U. K. 46 & 47 Vict., c. 39 (S. L. R.). Omitted as being spent.*]
6. Any member of Council may by writing under his hand, which shall be recorded in the minutes of the Council, resign his office; * * * Resignation of office.
7. If at any time hereafter it should appear to Parliament expedient to reduce the number or otherwise to deal with the constitution of the said Council, no member of Council who has not served in his office for a period of ten years shall be entitled to claim any compensation for the loss of his office, or for any alteration in the terms and condition under which the same is held. Provision as to future changes in constitution of Council.
8. The appointments of the ordinary members of the Governor General's Council, and of the members of Council of the several presidencies * * * shall * * * be made by Her Majesty by warrant under her Royal Sign Manual. Appointment of ordinary members of the Governor General's Council and of the presidencies.

THE INDIAN COUNCILS ACT, 1869.¹

(32 & 33 Vict., c. 98.)

An Act to define the powers of the Governor General of India in Council at meetings for making laws and regulations for certain purposes.

[11th August, 1869.]

WHEREAS doubts have arisen as to the extent of power of the Governor General of India in Council to make laws binding upon native Indian subjects beyond the Indian territories under the dominion of Her Majesty:

Power to make laws for native Indian subjects beyond the Indian territories.

1. From and after the passing of this Act, the Governor General of India in Council shall have power at meetings for the purpose of making laws and regulations to make laws and regulations for all persons being native Indian subjects of Her Majesty, her heirs and successors, without and beyond as well as within the Indian territories under the dominion of Her Majesty.

2. [Rep. 46 & 47 Vict., c. 39 (S. L. R.).]

Power to repeal or amend certain sections of 3 & 4 Will. 4, c. 85.

3. Notwithstanding anything in the Indian Councils Act or in any other Act of Parliament contained, any law or regulation which shall hereafter be made by the Governor General in Council in manner in the said Indian Councils Act provided shall not be invalid by reason only that it may repeal or affect any of the provisions of the Government of India Act, 1833, contained in sections * * * eighty-four * * * and eighty-six of the said Act.

THE EAST INDIA LOAN ACT, 1869.

(32 & 33 Vict., c. 106.)

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[11th August, 1869.]

[Preamble.]

1. [Empowering Secretary of State to raise loan, rep. as to U. K. 56 & 57 Vict., c. 54 (S. L. R.). Omitted as being inapplicable to India.]

Debentures transferable by delivery or deed.

Coupons by delivery.

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest monies secured thereby, shall be transferable by the delivery of such debentures; and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery.

¹ For digest and notes, see *Libert's Government of India*, p. 322.

32 & 33 Vict., c. 106.] *The East India Loan Act, 1869.* (Sec. 16.) 451

33 & 34 Vict., c. 3.] *The Government of India Act, 1870.* (Secs. 1-2.)

16. Any capital stock created under this Act shall be deemed to be ~~East India~~ ^{East India} stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide.¹

THE GOVERNMENT OF INDIA ACT, 1870.²

(33 & 34 Vict., c. 3.)

An Act to make better Provision for making Laws and Regulations for certain parts of India, and for certain other purposes relating thereto.

[25th March, 1870.]

[Preamble recites 24 & 25 Vict., c. 67.]

1. Every governor of a presidency in council, lieutenant governor or chief commissioner, whether the governorship, or lieutenant governorship, or chief commissionership be now in existence or may hereafter be established, shall have power to propose to the Governor General in council drafts of any regulations, together with the reasons for proposing the same, for the peace and government of any part or parts of the territories under his government or administration to which the Secretary of State for India shall from time to time by resolution in council declare the provisions of this section to be applicable from any date to be fixed in such resolution.

And the Governor General in council shall take such drafts and reasons into consideration; and when any such draft shall have been approved of by the Governor General in council, and shall have received the Governor General's assent, it shall be published in the Gazette of India and in the local Gazette, and shall thereupon have like force of law and be subject to the like disallowances as if it had been made by the Governor General of India in council at a meeting for the purpose of making laws and regulations.

The Secretary of State for India in council may from time to time withdraw such power from any governor, lieutenant governor or chief commissioner, on whom it has been conferred, and may from time to time restore the same as he shall think fit.

2. The Governor General shall transmit to the Secretary of State for India in council an authentic copy of every regulation which shall have been made under the provisions of this Act, and all laws or regulations hereafter made by the Governor General of India in council, whether at a meeting for

Copies of regulations to be sent to Secretary of State. Subsequent enactments to

¹ The rest of this Act (ss. 2 to 4, 6 to 13 and 15) is omitted as being identical with the corresponding sections of 23 & 24 Vict., c. 130.

² For digest and notes, see Ilbert's *Government of India*, pp. 322-323.

(Secs. 3-6.)

control
regulations.

purpose of making laws and regulations, or under the said provisions, shall control and supersede any regulation in any wise repugnant thereto which shall have been made under the same provisions.

Lieutenant-governors and chief commissioners to be members *ex-officio* of the Governor General's council for the purpose of making laws and regulations.

3. Whenever the Governor General in council shall hold a meeting for the purpose of making laws and regulations at any place within the limits of any territories now or hereafter placed under the administration of a lieutenant governor or a chief commissioner, the lieutenant governor or chief commissioner respectively shall be *ex-officio* an additional member of the council of the Governor General for that purpose in excess (if necessary) of the maximum number of twelve specified by the said Act.

4. [Rep. 46 & 47 Vict., c. 39 (S. L. R.).]

Sect. 49 of 3 & 4 Will. 4, c. 85; repealed. Procedure in case of difference between the Governor General and the majority of his council.

5. Whenever any measure shall be proposed before the Governor General of India in council whereby the safety, tranquillity, or interests of the British possessions in India, or any part thereof, are or may be, in the judgment of the said Governor General, essentially affected, and he shall be of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority in council then present shall dissent from such opinion, the Governor General may, on his own authority and responsibility, suspend or reject the measure in part or in whole, or adopt and carry it into execution, but in every such case any two members of the dissentient majority may require that the said suspension, rejection, or adoption, as well as the fact of their dissent, shall be notified to the Secretary of State for India, and such notification shall be accompanied by copies of the minutes (if any) which the members of the council shall have recorded on the subject.

Power to appoint natives of India to certain offices without certificate from the civil service commissioners.

6. Whereas it is expedient that additional facilities should be given for the employment of natives of India, of proved merit and ability, in the civil service of Her Majesty in India:

Be it enacted, that nothing in the Government of India Act, 1858, or in the Indian Civil Service Act, 1861, or in any other Act of Parliament or other law now in force in India, shall restrain the authorities in India by whom appointments are or may be made to offices, places, and employments in the civil service of Her Majesty in India from appointing any native of India to any such office, place, or employment, although such native shall not have been admitted to the said civil service of India in manner in section thirty-two of the first-mentioned Act provided, but subject to such rules as may be from time to time prescribed by the Governor General in council, and sanctioned by the Secretary of State in council, with the concurrence of a majority of members present;

(Secs. 1-2.)

and that for the purpose of this Act the words "natives of India" shall include any person born and domiciled within the dominions of Her Majesty in India, of parents habitually resident in India, and not established there for temporary purposes only, and that it shall be lawful for the Governor General in Council to define and limit from time to time the qualifications of natives of India thus expressed :

Provided that every resolution made by him for such purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

THE NATURALIZATION ACT, 1870.

(33 & 34 Vict., c. 14.)

An Act to amend the Law relating to the legal Condition of Aliens and British Subjects.

[12th May, 1870.]

[Preamble.]

1. This Act may be cited for all purposes as "The Naturalization Act, Short title. 1870."

Status of Aliens in the United Kingdom.

2. Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject, and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject:

Capacity of
an alien as to
property.

Provided,—

- (1) that this section shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall not qualify an alien for any office or for any municipal, Parliamentary, or other franchise:
- (2) that this section shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him:
- (3) that this section shall not affect any estate or interest, in real or personal property, to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in

(Secs. 3-6.)

pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act.

Power of
naturalized
aliens to divest
themselves of
their status
in certain
cases.

3. Where Her Majesty has entered into a convention with any foreign state to the effect that the subjects or citizens of that state who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty by Order in Council to declare that such convention has been entered into by Her Majesty;

and from and after the date of such Order in Council, any person being originally a subject or citizen of the state referred to in such order, who has been naturalized as a British subject, may, within such a limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration such person shall be regarded as an alien, and as a subject of the state to which he originally belonged as aforesaid.

A declaration of alienage may be made as follows; that is to say—

If the declarant be in the United Kingdom, in the presence of any justice of the peace; if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose.

If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

How British-
born subject
may cease to
be such.

4. Any person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also at the time of his birth became under the law of any foreign state a subject of such state and is still such subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a British subject.

Any person who is born out of Her Majesty's dominions of a father being a British subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject.

Trial of alien.

5. * * * * * an alien * * * * * shall be triable in the same manner as if he were a natural-born subject.

Expatriation.

Capacity of

6. Any British subject who has at any time before, or may at any time after, the passing of this Act, when in any foreign state and not under any

(Sec. 7.)

disability, voluntarily become naturalized in such state, shall from and after the time of his so having become naturalized in such foreign state be deemed to have ceased to be a British subject and be regarded as an alien: British subject to renounce allegiance to Her Majesty.

Provided,—

- (1) that where any British subject has before the passing of this Act voluntarily become naturalized in a foreign state and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject, and upon such declaration, hereinafter referred to as a declaration of British nationality, being made and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject; with this qualification, that he shall not, when within the limits of the foreign state in which he has been naturalized, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof or in pursuance of a treaty to that effect:
- (2) a declaration of British nationality may be made, and the oath of allegiance be taken as follows; that is to say,—if the declarant be in the United Kingdom, in the presence of a justice of the peace; if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction or any justice of the peace or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose; if out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

Naturalization and Resumption of British Nationality.

7. An alien who, within such limited time before making the application hereinafter-mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years or has been in the service of the Crown for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization. Certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary

(Sec. 8.)

of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers and privileges, and be subject to all obligations to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a British subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

Certificate of
re-admission
to British
nationality.

8. A natural-born British subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to British nationality, re-admitting him to the status of a British subject. The said Secretary of State shall have the same discretion as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

A statutory alien to whom a certificate of re-admission to British nationality has been granted shall, from the date of the certificate of re-admission,

(Secs. 9-10.)

but not in respect of any previous transaction, resume his position as a British subject; with this qualification, that within the limits of the foreign state of which he became a subject, he shall not be deemed to be a British subject, unless he has ceased to be a subject of that foreign state according to the laws thereof, or in pursuance of a treaty to that effect.

The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession, may be exercised by the governor of such possession; and residence in such possession shall in the case of such person be deemed equivalent to residence in the United Kingdom.

9. The oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say, Form of oath of allegiance.

“ I, _____, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me God.”

National Status of married Women and infant Children.

10. The following enactments shall be made with respect to the national status of women and children: National status of married women and infant children.

- (1) A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject:
- (2) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act:
- (3) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject and not a British subject:
- (4) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents:

(Sec. 11.)

- (5) Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, [or with such father while in the service of the Crown out of the United Kingdom,],¹ shall be deemed to be a naturalized British subject.

Supplemental Provisions.

Regulations
as to registra-
tion.

11. One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters:—

- (1) The form and registration of declarations of British nationality:
- (2) The form and registration of certificates of naturalization in the United Kingdom:
- (3) The form and registration of certificates of re-admission to British nationality:
- (4) The form and registration of declarations of alienage:
- (5) The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of British subjects who may be born or die out of Her Majesty's dominions * * * *
- (6) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act:
- (7) With the consent of the treasury the imposition or application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act.

The said Secretary of State, by a further regulation, may repeal, alter, or add to any regulation previously made by him in pursuance of this section.

Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not, so far as respects the imposition of fees, be in force in any British possession, and shall not, so far as respects any other matter, be in force in any British possession in which any Act or ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

¹ Words in brackets inserted by 58 & 59 Vict., c. 30, s. 1.

12. The following regulations shall be made with respect to evidence Regulations
as to evidence.
under this Act:—

- (1) Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned :
- (2) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate :
- (3) A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate :
- (4) Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register :
- (5) The Documentary Evidence Act, 1868, shall apply to any regulation made by a Secretary of State in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

Miscellaneous.

13. Nothing in this Act contained shall affect the grant of letters of denization by Her Majesty.

Saving of
letters of
denization.

14. Nothing in this Act contained shall qualify an alien to be the owner of a British ship.

Saving as to
British ships.

15. Where any British subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien.

Saving of
allegiance
prior to ex-
patriation.

Power of colonies to legislate with respect to naturalization.

16. All laws, statutes and ordinances which may be duly made by the legislature of any British possession for imparting to any person the privileges, or any of the privileges, of naturalization to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes, or ordinances in that possession.

Definition of terms.

17. In this Act, if not inconsistent with the context or subject-matter thereof—

“Disability” shall mean the status of being an infant, lunatic, idiot, or married woman:

“British possession” shall mean any colony, plantation, island, territory, or settlement within Her Majesty’s dominions, and not within the United Kingdom, and all territories and places under one legislature are deemed to be one British possession for the purposes of this Act:

“The governor of any British possession” shall include any person exercising the chief authority in such possession:

“Officer in the diplomatic service of Her Majesty” shall mean any ambassador, minister, or chargé d’affaires, or secretary of legation, or any person appointed by such ambassador, minister, chargé d’affaires, or secretary of legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty:

“Officer in the consular service of Her Majesty” shall mean and include consul-general, consul, vice-consul, and consular agent and any person for the time being discharging the duties of consul-general, consul, vice-consul, and consular agent.

18 and Sch. [*Rep. 46 & 47 Vict., c. 39 (S. L. R.). Omitted as being spent.*]

THE EXTRADITION ACT, 1870.

(33 & 34 Vict., c. 52.)

*An Act for amending the Law relating to the extradition of Criminals.*¹

[9th August, 1870.]

[Preamble.]

Preliminary.

Short title.

1. This Act may be cited as “The Extradition Act, 1870”.

Where arrangement for surrender

2. Where an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals, Her Majesty

¹ Extended by Act IX of 1895, s. 2.

(Sec. 3.)

may, by Order in Council, direct that this Act shall apply in the case of such foreign state. of criminals made, Order in Council to apply Act.

Her Majesty may, by the same or any subsequent order, limit the operation of the order and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the London Gazette.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals: Restrictions on surrender of criminals.

- (1) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character :
- (2) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded :
- (3) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise :
- (4) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

(Secs. 4-7.)

Provisions of
arrangement
for surrender.

4. An Order in Council for applying this Act in the case of any foreign state shall not be made unless the arrangement—

- (1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and
- (2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

Publication
and effect of
order.

5. When an order applying this Act in the case of any foreign state has been published in the London Gazette, this Act, after the date specified in the order, or if no date is specified, after the date of the publication, shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions and qualifications, if any, contained in the order, apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

Liability of
criminal to
surrender.

6. Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act, (as the case may be,) shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

Order of
Secretary of
State for issue
of warrant in
United King-
dom if crime
is not of a
political
character.

7. A requisition for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom, shall be made to Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign state. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

(Secs. 8-10.)

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

Issue of warrant by police magistrate, justice, etc.

- (1) by a police-magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and
- (2) by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State, shall forthwith send a report of the fact of such issue together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix receives from a Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

9. When a fugitive criminal is brought before the police magistrate, the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England.

Hearing of case and evidence of political character of crime.

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the

Committal or discharge of prisoner.

(Secs. 11-12.)

prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

Surrender of
fugitive to
foreign state
by warrant of
Secretary of
State.

11. If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus.

Upon the expiration of the said fifteen days, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal, if not delivered on the decision of the court, to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the warrant; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

Discharge of
persons apprehended if not
conveyed out
of United
Kingdom
within two
months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice

(Secs. 13-16.)

of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody unless sufficient cause is shown to the contrary.

13. The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed. Execution of warrant of police magistrate.

14. Depositions or statements on oath taken in a foreign state and copies of such original depositions or statements and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act. Depositions to be evidence.

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows:— Authentication of depositions and warrants.

(1) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued ;

(2) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require, and

(3) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place; and

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state: And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

Crimes committed at Sea.

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect: Jurisdiction as to crimes committed at sea.

1. This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland,

(Secs. 17-18.)

were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate:

2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:
3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

Fugitive Criminals in British Possessions.

Proceedings as to fugitive criminals in British possessions.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications; namely,

- (1) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the governor of that British possession by any person recognised by that governor as a consul-general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made) as the governor of such colony or dependency:
- (2) No warrant of a Secretary of State shall be required, and all powers vested in or acts authorized or required to be done under this Act by the police magistrate and the Secretary of State or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone:
- (3) Any prison in the British possession may be substituted for a prison in Middlesex:
- (4) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of laws of British possessions.

18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the

(Secs. 19-24.)

Order in Council applying this Act in the case of any foreign state, or by any subsequent order, either

suspend the operation within any such British possession of this Act, or of any part thereof so far as it relates to such foreign state, and so long as such law or ordinance continues in force there, and no longer; or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act.

General Provisions.

19. Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act, is rendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

Criminal surrendered by foreign state not triable for previous crime.

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

As to use of forms in second schedule.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order.

Revocation, etc. of Order in Council.

22. This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom; and the royal Courts of the Channel Islands are hereby respectively authorized and required to register this Act.

Application of Act in Channel Islands and Isle of Man.

23. Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states contiguous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

Saving for Indian treaties.

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the Foreign Tribunals Evidence Act, 1856;

Power of foreign state to obtain evidence United Kingdom.

(Secs. 25-26.)

and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Foreign state
includes de-
pendencies.

25. For the purposes of this Act, every colony, dependency, and constituent part of a foreign state and every vessel of that state, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign state.

Definition of
terms.

"British
possession:"

26. In this Act, unless the context otherwise requires,—

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession:

"Legisla-
ture:"

The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor:"

The term "governor" means any person or persons administering the government of a British possession, and include the governor of any part of India:

"Extradition
crime:"

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act:

"Conviction:"

The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy:

"Fugitive
criminal:"

The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign state who is in or is suspected of being in some part of Her Majesty's dominions; and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state:

"Fugitive
criminal of a
foreign state:"

"Secretary of
State;"

The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"Police
magistrate:"

The term "police magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan Police court in Bow Street.¹

¹ See, however, 58 & 59 Vict., c. 33, s. 1.

(Sec. 27. First Schedule.)

The term "justice of the peace" includes in Scotland any sheriff, sheriff's "Justice of the peace:" substitute, or magistrate: *

The term "warrant" in the case of any foreign state, includes any judicial "Warrant." document authorizing the arrest of a person accused or convicted of crime.

Repeal of Acts.

27. The Acts specified in the third schedule to this Act are hereby Repeal of Acts in third schedule. repealed as to the whole of her Majesty's dominions; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed, shall apply (as regards crimes committed either before or after the passing of this Act,) in the case of the foreign states with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act. * * * *

* * * *

SCHEDULES.

FIRST SCHEDULE.²*List of Crimes.*

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be), at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

¹ Part omitted repealed by 46 & 47 Vict., c. 39 (S. L. R.).

² By s. 8 of 36 & 37 Vict., c. 60, this Act is to be construed as if there were included in this schedule the list of crimes contained in the schedule to that Act. By s. 28 of 36 & 37 Vict., c. 88, certain slave trade offences are also to be deemed to be inserted.

(Second Schedule.)

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

SECOND SCHEDULE.

Form of Order of Secretary of State to the Police Magistrate.

To the chief magistrate of the metropolitan police courts or other magistrate of the metropolitan police court in Bow Street [or the stipendiary magistrate at].

WHEREAS, in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the day of , requisition has been made to me, , one of Her Majesty's Principal Secretaries of State, by , the diplomatic representative of , for the surrender of , late of , accused [or convicted] of the commission of the crime of within the jurisdiction of :

Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the Extradition Act, 1870, relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18 .

*(Second Schedule.)**Form of Warrant of Apprehension by Order of Secretary of State.*

Metropolitan police district, [or county or borough of] to wit. } To all and each of the constables of the metropolitan police force [or of the county or borough of].

WHEREAS the Right Honourable
one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of , late of , accused [or convicted] of the commission of the crime of within the jurisdiction of : This is therefore to command you in Her Majesty's name forthwith to apprehend the said pursuant to the Extradition Act, 1870, wherever he may be found in the United Kingdom, or Isle of Man, and bring him before me or some other [magistrate sitting in this court] * to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [Bow Street, one of the police courts of the metropolis*] this day of 18 .

J. P.

* NOTE.—Alter as required.

Form of Warrant of Apprehension without Order of Secretary of State.

Metropolitan police district, [or county or borough of] to wit. } To all and each of the constables of the metropolitan police force [or of the county or borough of].

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district [or the said county or borough of] that , late of , is accused [or convicted] of the commission of the crime of within the jurisdiction of

: This is therefore to command you in Her Majesty's name forthwith to apprehend the said , and to bring him before me or some other magistrate sitting at this court [or one of Her Majesty's justices of the peace in and for the county [or borough] of] to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis [or in the county or borough aforesaid] this day of 18

J. P.

Form of Warrant for bringing Prisoner before the Police Magistrate.

To , constable of the police force of , and to
County [or borough] of to wit. } 1 other peace officers in the said county [or borough]

(Second Schedule.)

WHEREAS _____, late of _____, accused [or alleged to be convicted] of the commission of the crime of _____ within the jurisdiction of _____ has been apprehended and brought before the undersigned; one of Her Majesty's justices of the peace in and for the said county [or borough] of _____; And whereas by the Extradition Act, 1870, he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow Street within the metropolitan police district [or the stipendiary magistrate for _____] : This is therefore to command you, the said constable, in Her Majesty's name forthwith to take and convey the said _____ to the metropolitan police district [or the said _____], and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow Street within the said district [or before a stipendiary magistrate sitting in the said _____], to show cause why he should not be surrendered in pursuance of the Extradition Act, 1870, and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at _____ in the county [or borough] aforesaid this _____ day of _____ 18 .

J. P.

Form of Warrant of Committal.

To _____, one of the constables of the metropolitan force, [or Metropolitan police district [or the county or borough of _____] to wit.] of the police force of the county or borough of _____, and to the keeper of the _____.

Be it remembered, that on this _____ day of _____ in the year of our Lord _____, _____, late of _____, is brought before me _____, the chief magistrate of the metropolitan police courts [or one of the police magistrates of the metropolis], sitting at the police court in Bow Street, within the metropolitan police district [or a stipendiary magistrate for _____], to show cause why he should not be surrendered in pursuance of the Extradition Act, 1870, on the ground of his being accused [or convicted] of the commission of the crime of _____ within the jurisdiction of _____, and forasmuch as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act:

This is therefore to command you, the said constable, in Her Majesty's name forthwith to convey and deliver the body of the said _____ into the custody of the said keeper of the _____ at _____, and you, the said keeper, to receive the said _____ into your custody,

(Third Schedule.)

and him there safely to keep until he is thence delivered pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts
of the metropolis, [or at the said] this
day of 18 .

J. P.

Form of Warrant of Secretary of State for surrender of Fugitive.

To the keeper of and to

WHEREAS , late of , accused [or convicted
of the commission of the crime of within the jurisdiction
of " , was delivered into the custody of you ,
the keeper of , by warrant dated , pursuant
to the Extradition Act, 1870:

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the body of the said into the custody of the said , and I command you, the said , to receive the said into your custody, and to convey him within the jurisdiction of the said , and there place him in the custody of any person or persons appointed by the said to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's
Principal Secretaries of State, this day of .

THIRD SCHEDULE.

Year and Chapter.	Title.
6 & 7 Vict., c. 75 . . .	An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.
6 & 7 Vict., c. 76 . . .	An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
8 & 9 Vict., c. 120 . . .	An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.
25 & 26 Vict., c. 70 . . .	An Act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals.
29 & 30 Vict., c. 121 . . .	An Act for the amendment of the law relating to treaties of extradition.

474 *The East India Contracts Act, 1870. (Sec. 2.) [33 & 34 Vict., c. 59.*

The Foreign Enlistment Act, 1870. (Secs. 1-3.) [33 & 34 Vict., c. 90.

THE EAST INDIA CONTRACTS ACT, 1870.¹

(33 & 34 Vict., c. 59.)

An Act to render valid certain Contracts informally executed in India.

[9th August, 1870.]

[Preamble recites 22 & 23 Vict., c. 41 ; 32 & 33 Vict., c. 29.]

1. [Rep. 46 & 47 Vict., c. 39 (S. L. R.).]

Power to
authorities in
India to vary
forms of exe-
cution.

2. It shall be lawful for the Governor General, by resolution in Council from time to time to vary the form of execution prescribed by the said first recited Act for the deeds, contracts, and other instruments to which it relates, and to empower such authorities as to him may seem expedient to vary it within the respective limits of their local jurisdiction; and deeds, contracts, and other instruments executed according to forms so altered shall have in all respects the like validity as if they had been executed according to the provisions of the Government of India Act, 1889.

THE FOREIGN ENLISTMENT ACT, 1870.

(33 & 34 Vict., c. 90.)

An Act to regulate the conduct of Her Majesty's Subjects during the existence of hostilities between foreign states with which Her Majesty is at peace.

[9th August, 1870.]

WHEREAS it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign states with which Her Majesty is at peace:

Short title of
Act.

1. This Act may be cited for all purposes as "The Foreign Establishment Act, 1870."

Preliminary.

Application of
Act.

2. This Act shall extend to all the dominions of Her Majesty, including adjacent territorial waters.

Commence-
ment of Act.

3. This Act shall come into operation in the United Kingdom immediately on the passing thereof, and shall be proclaimed in every British possession by the governor thereof, as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act.

¹ For digest and notes, see Ilbert's *Government of India*, P. 323.

(Secs. 4-7.)

Illegal Enlistment.

4. If any person, without the license of Her Majesty, being a British subject, within or without Her Majesty's dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any foreign state at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a British subject or not within Her Majesty's dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid,—

Penalty on
enlistment in
service of
foreign state.

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

5. If any person, without the license of Her Majesty, being a British subject, quits or goes on board any ship with a view of quitting Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether British subject or not, within Her Majesty's dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's dominions with the like intent,—

Penalty on
leaving Her
Majesty's
dominions
with intent
to serve a
foreign state.

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

6. If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state,—

Penalty on
embarking
persons under
false repre-
sentations as
to service.

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

7. If the master or owner of any ship, without the license of Her Majesty knowingly either takes on board, or engages to take on board or has on board such ship within Her Majesty's dominions any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,

Penalty on
taking ille-
gally enlisted
persons on
board ship.

(1) any person who, being a British subject within or without the dominions

(Sec. 8.)

ions of Her Majesty has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state :

- (2) any person being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state :
- (3) any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state :

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue ; that is to say,

- (1) the offender shall be punishable by fine and imprisonment or either of such punishments at the discretion of the court before which the offender is convicted : and imprisonment, if awarded, may be either with or without hard labour : and
- (2) such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace or other magistrate or magistrates having the authority of two justices of the peace : and,
- (3) all illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship.

Illegal Shipbuilding and illegal Expeditions.

Penalty on
illegal ship-
building and
illegal ex-
peditions.

8. If any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts ; that is to say,—

- (1) builds or agrees to build or causes to be built any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state : or
- (2) issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state : or

(Sec. 9.)

(3) equips any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or

(4) despatches, or causes or allows to be despatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of an foreign state at war with any friendly state:

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue:

(1) The offender shall be punishable by fine and imprisonment or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour:

(2) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty:

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following; (that is to say,)

(1) if forthwith upon a proclamation of neutrality being issued by Her Majesty he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the Secretary of State:

(2) if he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

9. Where any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such

Presumption
as to evidence
in case of
illegal ship.

(Secs. 10-14.)

ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state.

Penalty on
aiding the
warlike equip-
ment of
foreign ships.

10. If any person within the dominions of Her Majesty, and without the license of Her Majesty,—

by adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the dominions of Her Majesty was a ship in the military or naval service of any foreign state at war with any friendly state,—

such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on
fitting out
naval or
military
expeditions
without
license.

11. If any person within the limits of Her Majesty's dominions, and without the license of Her Majesty,—

prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, the following consequences shall ensue:

(1) Every person engaged in such preparation or fitting out or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour:

(2) All ships and their equipments and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.

Punishment
of accessories.

12. Any person who aids, abets, counsels, or procures the commission of any offence against this Act shall be liable to be tried and punished as a principal offender.

Limitation of
term of im-
prisonment.

13. The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years.

Illegal Prize.

Illegal prize
brought into
British ports
rester d.

14. If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty, in violation of the neutrality of this realm, or captured by any ship which may have been built, equipped, commis-

(Secs. 15-18.)

sioned, or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the government of the foreign state to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise to the ordinary jurisdiction of such court; and in the meantime and until a final order has been made on such application the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

General Provision.

15. For the purposes of this Act, a license by Her Majesty shall be under the Sign Manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty. License by
Her Majesty
how granted.

Legal Procedure.

16. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's dominions in which the person who committed such offence may be. Jurisdiction
in respect of
offences by
persons
against Act.

17. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held. Venue in
respect of
offences by
persons.
21 & 25 Vict.,
c. 97.

18. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any British court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may by warrant Power to
remove offend-
ers for trial.

(Secs. 19-21.)

or instrument in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant and to deliver him when arrived at such place or places into the custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

**Jurisdiction
in respect of
forfeiture of
ships for
offences
against Act.**

19. All proceedings for the condemnation and forfeiture of a ship or ship and equipment or arms and munitions of war in pursuance of this Act shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the court of Admiralty, and not in any other court; and the court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act all powers, which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.

**Regulations
as to proceed-
ings against
the offender
and against
the ship.**

20. Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture or to take proceedings for the forfeiture because proceedings are taken against the offender.

**Officers
authorised to
seize offend-
ing ships.**

21. The following officers, that is to say,

- (1) any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the commissioners of customs or any officer of the Board of Trade, subject nevertheless to any special or general instructions from the Board of Trade;

(Secs. 22-23.)

- (2) any officer of customs or public officer in any British possession, subject nevertheless to any special or general instructions from the governor of such possession;
- (3) any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;
- (4) any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer,

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority," but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

22. Any officer authorized to seize or detain any ship in respect of any offence against this Act, may for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbour-master or dock-master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act, and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person shall be freely and fully indemnified as well against the Queen's Majesty, her heirs and successors as against all persons so killed, maimed or hurt.

Powers of officers authorized to seize ships.

23. If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law or in manner herein-after mentioned.

Special power of Secretary of State or chief executive authority to detain ship.

(Sec. 23.)

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court declares that the owner is to be

(Sect. 24-25.)

indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a war-like character has taken place in this country.

24. Where it is represented to any local authority, as defined by this Act, and such local authority believes the representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority. Special power of local authority to detain ship.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release.

25. The Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dockyard or other place within Her Majesty's dominions and inquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign state at war with a friendly state, and to search such ship. Power of Secretary of State or executive authority to grant search warrant.

(Secs. 26-30.)

Exercise of
powers of
Secretary of
State or chief
executive
authority.

26. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions; that is to say,

- (1) in Ireland by the Lord Lieutenant or other the chief governor or governors of Ireland for the time being, or the chief secretary to the Lord Lieutenant:
- (2) in Jersey by the Lieutenant Governor:
- (3) in Guernsey, Alderney, and Sark, and the dependent islands, by the Lieutenant Governor:
- (4) in the Isle of Man by the Lieutenant Governor:
- (5) in any British possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorized in pursuance of this Act to issue such warrant in Ireland, the Channel Islands, or the Isle of Man shall be laid before Parliament.

Appeal from
Court of Ad-
miralty.

27. An appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.

Indemnity to
officers.

28. Subject to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty, no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.

Indemnity to
Secretary of
State or chief
executive au-
thority.

29. The Secretary of State shall not, nor shall the chief executive authority, be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

Interpretation Clause.

Interpreta-
tion.

30. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them, that is to say,

"Foreign
state:"

"Foreign state" includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people:

(Sec. 30.)

"Military service" shall include military telegraphy and any other "Military employment whatever in or in connexion with any military service :"
operation :

"Naval service" shall, as respects a person, include service as a marine "Naval employment as a pilot in piloting or directing the course of a ship service :"
of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer, or ship under letters of marque ; and as respects a ship, include any user of a ship as a transport, store ship, privateer, or ship under letters of marque :

"United Kingdom" includes the Isle of Man, the Channel Islands and "United Kingdom :"
other adjacent islands :

"British possession" means any territory, colony, or place being part of "British Her Majesty's dominions, and not part of the United Kingdom possession :"
as defined by this Act :

"The Secretary of State" shall mean any one of Her Majesty's Principal "The Secretaries of State :"
Secretaries of State :

"The Governor" shall as respects India mean the Governor General or "Governor :"
the governor of any presidency, and where a British possession consists of several constituent colonies, mean the Governor General of the whole possession or the governor of any of the constituent colonies, and as respects any other British possession it shall mean the officer for the time being administering the government of such possession ; also any person acting for or in the capacity of a governor shall be included under the term "governor :"

"Court of Admiralty" shall mean the High Court of Admiralty of "Court of England or Ireland, the Court of Session of Scotland, or any Vice- Admiralty :"
Admiralty Court within Her Majesty's dominions :

"Ship" shall include any description of boat, vessel, floating battery, or "Ship :"
floating craft ; also any description of boat, vessel, or other craft or battery made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water :

"Building" in relation to a ship shall include the doing any act towards "Building :"
or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly : .

"Equipping" in relation to a ship shall include the furnishing a ship "Equipping :"
with any tackle, apparel, furniture, provisions, arms, munitions, or stores or any other thing which is used in or about a ship for the

486 *The Foreign Enlistment Act, 1870. (Secs. 32-33.)* [33 & 34 Vict., c. 90.]

The Naturalization Oath Act, 1870. (Sec. 1.) [33 & 34 Vict., c. 102.]

purpose of fitting or adapting her for the sea or for naval service, and all words relating to equipping shall be construed accordingly:

"Ship and equipment:"

"Ship and equipment" shall include a ship and everything in or belonging to a ship:

"Master."

"Master" shall include any person having the charge or command of a ship.

Saving Clauses.

31. [*Rep. 46 & 47 Vict., c. 39 (S. L. R.).*]

Saving as to commissioned foreign ships.

32. Nothing in this Act contained shall subject to forfeiture any commissioned ship of any foreign state, or give to any British court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign state any jurisdiction which it would not have had if this Act had not passed.

Penalties not to extend to persons entering into military service in Asia.
59 Geo. 3, c. 69, s. 12.

33. Nothing in this Act contained shall extend or be construed to extend to subject to any penalty any person who enters into the military service of any prince, state, or potentate in Asia, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty entering into the military service of princes, states, or potentates in Asia.

THE NATURALIZATION OATH ACT, 1870.

(33 & 34 Vict., c. 102.)

An Act to amend the Law relating to the taking of Oaths of Allegiance on Naturalization.

[10th August, 1870.]

[*Preamble recites 33 & 34 Vict., c. 14.*]

Regulations as to oaths of allegiance.

1. The power of making regulations vested in one of Her Majesty's Principal Secretaries of State by the Naturalization Act, 1870, shall extend to prescribing as follows:

- (1) The persons by whom the oaths of allegiance may be administered under that Act;
- (2) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested;
- (3) The registration of such oaths:

(Secs. 2-3.)

- (4) The persons by whom certified copies of such oaths may be given:
- (5) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence, of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act:
- (6) The proof in any legal proceeding of such oaths:
- (7) With the consent of the Treasury the imposition and application of fees in respect of the administration or registration of any such oath:

The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act.

2. Any person wilfully and corruptly making or subscribing any declaration under the Naturalization Act, 1870, knowing the same to be untrue in any material particular, shall be guilty of a misdemeanor and be liable to imprisonment with or without hard labour for any term not exceeding twelve months. Penalty on making false declaration.

3. This Act shall be termed the Naturalization Oath Act, 1870, and shall be construed as one with the Naturalization Act, 1870, and may be cited together with that Act as the Naturalization Acts, 1870. Construction and short title of Act.

END OF VOLUME I.

APPENDIX I.

LIST OF ACTS OF PARLIAMENT AFFECTED BY INDIAN LEGISLATION.*

Regul year and number.	Part affected.	How affected.
52 Hen. 3, c. 1 . . .	The whole . . .	Rep. <i>Distress Act, 1875 (I of 1875), s. 2 and Sch. II.</i>
" " " c. 3 . . .	Ditto . . .	<i>Ditto.</i>
" " " c. 4 . . .	Ditto . . .	<i>Ditto.</i>
" " " c. 15 . . .	Ditto . . .	<i>Ditto.</i>
" " " c. 21 . . .	Ditto . . .	<i>Ditto.</i>
13 Ed. 1, c. 2 . . .	Ditto . . .	<i>Ditto.</i>
" " " c. 37 . . .	Ditto . . .	<i>Ditto.</i>
Les. Estatuz del Eachekere, between c. 13 and c. 14 of 17, Ed. 2.	Ditto . . .	<i>Ditto.</i>
27 Hen. 8, c. 10 . . .	Ditto . . .	Rep. <i>Transfer of Property Act, 1882 (IV of 1882), s. 2 and sch.</i>
32 " " c. 1 . . .	Ditto . . .	Rep. <i>Wills Act, 1838 (XXV of 1838), s. 2.</i>
34 & 35 " " c. 6 . . .	Ditto . . .	<i>Ditto.</i>
1 & 2 Phil. & M., c. 12 . . .	Ditto . . .	Rep. <i>Distress Act, 1875 (I of 1875), s. 2 and Sch. II.</i>
13 Eliz., c. 5 . . .	Ditto . . .	Rep. <i>Transfer of Property Act, 1882 (IV of 1882), s. 2 and sch.</i>
27 " c. 4 . . .	Ditto . . .	<i>Ditto.</i>
7 Jas. 1, c. 5† . . .	Ditto . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
21 " c. 12 . . .	Ditto . . .	<i>Ditto.</i>
21 " c. 16 . . .	Ditto . . .	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
17 Ch. 2, c. 7 . . .	Ditto . . .	Rep. <i>Distress Act, 1875 (I of 1875), s. 2 and Sch. II.</i>

* These repeals, extensions and modifications are, of course, subject to the limitations imposed on the powers of the Indian Legislature.

† Recited in the last edition of the Statutes Revised as 7 [& 8] Jas. 1.

Regnal year and number.	Part affected.	How affected.
29 Ch. 2, c. 3 . . .	So much as related to devises or bequests of land, etc.	Rep. Wills Act, 1838 (XXV of 1838), s. 2.
	Ss. 1 to 4, 17 . . .	Rep. Indian Contract Act, 1872 (IX of 1872), s. 1 and sch.
	Ss. 7 to 11 . . .	Rep. Indian Trusts Act, 1882 (II of 1882), s. 2 and sch.
	Ss. 13 to 17, 22 to 24	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
29 Ch. 2, c. 7 . . .	The whole . . .	Rep. <i>Code of Civil Procedure (Act X of 1877), s. 3 and Sch. I.</i>
2 Wm. & M., c. 5 . . .	Ditto . . .	Rep. <i>Distress Act, 1875 (I of 1875), s. 2 and Sch. II.</i>
4 „ „ c. 16 . . .	Ditto . . .	Rep. Transfer of Property Act, 1882 (IV of 1882), s. 2 and sch.
8 & 9 Wm. 3, c. 11 . . .	Ditto . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
9 „ „ c. 17 . . .	Ditto . . .	Rep. Negotiable Instruments Act 1881 (XXVI of 1881) s. 2 and sch.
3 & 4 Anne, c. 8 . . .	Ditto . . .	Ditto.
4 „ „ c. 16 . . .	Ss. 17 to 19 . . .	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
4 & 5 „ „ c. 3 . . .	So much as related to witnesses to nuncupative wills.	Rep. Wills Act, 1838 (XXV of 1838).
14 Geo. 2, c. 20 . . .	So much as related to estates <i>pur autre vie</i> .	Ditto.
24 „ „ c. 44 . . .	The whole . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
25 „ „ c. 6 . . .	Ditto . . .	Rep. Wills Act, 1838 (XXV of 1838).
13 Geo. 3, c. 63 . . .	Ss. 16, 19, 20, 27 to 29, 31, 33, 36.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	S. 18 . . .	Rep. <i>Privy Council Appeals Act, 1874 (VI of 1874), s. 2 and sch.</i>
	S. 30 . . .	Rep. Usury Laws Repeal Act, 1855 (XXVIII of 1855), s. 1.
	S. 34 . . .	Rep. <i>High Courts' Criminal Procedure Act, 1875 (X of 1875), s. 2 and sch.</i>

Regnal year and number.	Part affected.	How affected.
18 Geo. 3, c. 63	S. 38	Rep. <i>Code of Criminal Procedure, 1882 (Act X of 1882), s. 2 and Sch. I.</i>
21 „ „ c. 70	Ss. 9 to 16, 19 to 26 .	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	.....	Ext. Act XXIII of 1850, s. 12, and Act XII of 1851, s. 16.
26 „ „ c. 57	S. 29	Rep. <i>Foreign Jurisdiction and Extradition Act, 1872 (XI of 1872), s. 2 and Sch. I.</i>
	S. 38	Rep. <i>Indian Evidence Act, 1872 (I of 1872), s. 2 and sch.</i>
33 „ „ c. 52	S. 28	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
	S. 39	Mod. <i>Secretaries to Government Act, 1834 (II of 1834).</i>
	Ss. 61, 137 (from “nor shall it be lawful for any of His Majesty's subjects” to the end of the section), 155, 159.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	S. 67	Rep. <i>Foreign Jurisdiction and Extradition Act, 1872 (XI of 1872), s. 2 and Sch. I.</i>
	Ss. 151, 152	Rep. <i>Justices of the Peace Act, 1869 (II of 1869), s. 2 and sch.</i>
	Ss. 153, 154	Rep. <i>High Courts' Criminal Procedure Act, 1875 (X of 1875), s. 2 and sch.</i>
	S. 157	Rep. <i>Coroners' Act, 1871 (IV of 1871), s. 2 and Sch. I.</i>
	S. 162	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
	.....	Mod. <i>Presidency Banks Act, 1876 (XI of 1876), s. 66.</i>
37 „ „ c. 142. . . .	Ss. 4 to 8, 15, 17 to 26, 30.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	S. 16	Rep. <i>Privy Council Appeals Act, 1874 (VI of 1874), s. 2 and sch.</i>

Regnal year and number.	Part affected.	How affected.
39 & 40 Geo. 3, c. 79	Ss. 4, 6, 8, 10, 11, 17 to 19, 21 to 24.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
42 " c. 85	S. 6	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
47 " Sess. 2, c. 68 .	Ss. 4 to 6	Rep. <i>Justices of the Peace Act, 1869 (II of 1869), s. 2 and sch.</i>
	Ss. 8 to 10	Rep. <i>Presidency Banks Act, 1876 (XI of 1876), s. 2 and sch.</i>
49 " c. 126 . . . .	.....	Indemnity against <i>Act XIV of 1889.</i>
53 " c. 155	S. 79	Mod. Secretaries to Government Act, 1834 (II of 1834).
	Ss. 97, 121, 123	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
	Ss. 98, 99, 104, 108, 109, 113, 122.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	Ss. 100 to 103	Rep. <i>High Courts' Criminal Procedure Act, 1875 (X of 1875), s. 2 and sch.</i>
	S. 105	Rep. <i>Code of Criminal Procedure (Act X of 1872), s. 2 and sch.</i>
	S. 107	Rep. <i>Act XI of 1836.</i>
	S. 112	Rep. <i>Justices of the Peace Act, 1869 (II of 1869), s. 2 and sch.</i>
	S. 124	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
54 " c. 105	The whole	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
55 " c. 84	Ditto	<i>Ditto.</i>
58 " c. 84	Ditto	Rep. <i>Indian Christian Marriage Act, 1872 (XV of 1872), s. 2 and Sch. V.</i>
4 Geo. 4, c. 71	Ss. 8 to 10, 14	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
5 " " c. 108	S. 2	<i>Ditto.</i>
6 " " c. 85	S. 6	<i>Ditto.</i>
7 " " c. 37	So much as had not been repealed.	<i>Ditto.</i>
9 " " c. 33	The whole, except as to the estates of persons dying before 1st January, 1866.	<i>Ditto.</i>

Regnal year and number.	Part affected.	How affected.
9 Geo. 4, c. 74	The whole, except ss. 1, 7, 8, 9, 25, 26, 56.	Rep. <i>High Courts' Criminal Procedure Act, 1875 (X of 1875), s. 2 and sch.</i>
11 Geo. 4 & 1 Wm. 4, c. 46	.....	Ext. Illusory Appointments and Infants' Property Act, 1841 (XXIV of 1841), s. 2.
" " " " c. 47	S. 11	Ditto, s. 4.
" " " " c. 65	.....	Ditto, s. 2.
" " " " c. 75	The whole	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
2 & 3 Wm. 4, c. 117	Ditto	Rep. <i>Justices of the Peace Act, 1869 (II of 1869), s. 2 and sch.</i>
3 & 4 Wm. 4, c. 42	S. 28	Ext. Inheritance Act, 1839 (XXX of 1839).
" " " c. 105 . . . . .	.....	Ext. Dower Act, 1839 (XXIX of 1839).
" " " c. 106 . . . . .	.....	Ext. Inheritance Act, 1839 (XXX of 1839).
5 & 6 " " c. 6	The whole	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
2 & 3 Vict., c. 34	Ditto	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
3 & 4 " c. 37	Ss. 43 to 47	Ditto.
" " c. 56 . . . . .	.....	Ext. Indian Registration of Ships Act, 1841 (X of 1841).
5 & 6 " c. 45 . . . . .	.....	Ext. Indian Copyright Act, 1847 (XX of 1847).
6 & 7 " c. 94	S. 7	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
11 & 12 " c. 21	Ss. 1, 65 to 67	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	Ss. 15, 19, 76	Doubts removed, powers extended and certain rules validated, Indian Insolvency Rules Act, 1898 (X of 1898).
	S. 42	Rep. <i>Indian Contract Act, 1872 (IX of 1872), s. 1 and sch.</i>
	.....	Ext. Lower Burma Courts Act, 1889 (XI of 1889), s. 50.

Regnal year and number.	Part affected.	How affected.
14 & 15 Vict., c. 40 . . .	The whole . . .	Rep. Indian Christian Marriage Act, 1872 (XV of 1872), s. 2 and Sch. V.
" " c. 99 . . .	Ss. 11, 19 . . .	Rep. Indian Evidence Act, 1872 (I of 1872), s. 2 and sch.
17 & 18 " c. 104 . . .	S. 9 . . .	Rep. <i>Repealing Act</i> , 1870 (XIV of 1870), s. 1 and sch.
	.....	Ext. Indian Ports Act, 1889 (X of 1889), s. 62; Indian Merchant Shipping Act, 1883 (V of 1883), ss. 17, 32.
18 & 19 " c. 119 . . .	.....	Ext. Indian Sea Passengers Act, 1885 (XII of 1885), s. 3; Indian Merchant Shipping Act, 1883 (V of 1883), ss. 17, 32.
26 & 27 " c. 51 . . .	.....	Ext. Indian Sea Passengers Act, 1885 (XII of 1885), s. 3.
33 & 34 " c. 52 . . .	.....	Ext. Extradition (India) Act, 1895 (IX of 1895), s. 2.
36 & 37 " c. 60 . . .	.....	Ditto.
44 & 45 " c. 58 . . .	S. 156 . . .	Fines locally imposed and recovered under this provision directed to be credited to cantonment funds, Cantonments Act, 1889 (XIII of 1889), s. 21 (1) (a).

LIST OF CHARTERS OR LETTERS PATENT OF SUPREME OR HIGH COURTS
AFFECTED BY INDIAN LEGISLATION.

Charter, etc.	Part affected.	How affected.
Charter of Supreme Court at Fort William, dated 26th March, 1774.	Clause 21 . . .	Rep. Presidency Small Cause Courts Act, 1882 (XV of 1882), s. 2 and Sch. I.
Charter of Supreme Court at Madras, dated 26th December, 1800.	Clause 47 . . .	Ditto.
Charter of Supreme Court at Bombay, dated 8th December, 1823.	Clause 59 . . .	Ditto.
Letters Patent for High Court at Bombay, dated 28th December, 1865.	Section 22 . . .	Am. Act XXIII of 1866.

APPENDIX II.

STATUTE LAW REVISION ACTS.

NOTE.—As a rule every Statute Law Revision Act * declares that "this Act shall not extend to repeal any enactment so far as the same may be in force in any part of Her Majesty's dominions out of the United Kingdom, except where otherwise expressed in the schedule."

In the following list the entry "Usual extent" indicates that the Act to which the entry relates, has been so drawn.

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1861	24 & 25 Vict., c. 101	United Kingdom (there being no declaration as to extent).	In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :— 7 & 8 W. & M., c. 22 ; 10 Will. 3, c. 14 ; 7 Geo. 1, c. 21 ; 8 " " c. 12 ; 2 Geo. 2, c. 35 ; 5 " " c. 22 ; 6 " " c. 13 ; 14 " " c. 37 ; 19 " " c. 37 ; 25 " " c. 40 ; 5 Geo. 3, c. 25 ; 6 " " c. 18 ; " " " c. 52 ; 7 " " c. 46 ; " " " c. 55 ; 8 " " c. 19 ; and 9 " " c. 18.
1863	26 & 27 Vict., c. 125	England only.	
1867	30 & 31 Vict., c. 59	Usual extent.	

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1870	33 & 34 Vict., c. 69	United Kingdom (there being no declaration as to extent).	
1871	34 & 35 Vict., c. 116	Usual extent.	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely:—</p> <p>5 Geo. 1, c. 4; 11 Geo. 3, c. 52; 13 " " c. 14; " " " c. 26; 14 " " c. 83; " " " c. 88; 15 " " c. 31; " " " c. 40; " " " c. 45; 22 " " c. 75; 23 " " c. 14; 26 " " c. 26; 27 " " c. 2; 28 " " c. 85; 30 " " c. 47; and 31 " " c. 31.</p>
1872	35 & 36 Vict., c. 63	Ditto	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely:—</p> <p>14 Geo. 3, c. 83; " " " c. 88; 21 " " c. 65; " " " c. 70; 23 " " c. 36; 24 " " Sess. 2, c. 25;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1872	35 & 36 Vict., c. 63— <i>contd.</i>		<p>26 Geo. 3, c. 57 ;</p> <p>28 „ „ c. 8 ;</p> <p>31 „ „ c. 31 ;</p> <p>33 „ „ c. 52 ;</p> <p>37 „ „ c. 31 ;</p> <p>42 „ „ c. 29 ;</p> <p>43 „ „ c. 138 ; and</p> <p>45 „ „ c. 36.</p>
„	35 & 36 Vict., c. 97	.....	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :—</p> <p>47 Geo. 3, Sess. 2, c. 63 ;</p> <p>49 „ „ c. 27 ;</p> <p>„ „ „ c. 46 ; and</p> <p>50 „ „ c. 87.</p>
„	35 & 36 Vict., c. 98	Ireland only.	
1873	36 & 37 Vict., c. 91	Usual extent	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :—</p> <p>47 Geo. 3, Sess. 2, c. 41 ;</p> <p>51 „ „ c. 45 ;</p> <p>„ „ „ c. 47 ;</p> <p>„ „ „ c. 64 ;</p> <p>„ „ „ c. 75 ;</p> <p>52 „ „ c. 121 ;</p> <p>„ „ „ c. 122 ;</p> <p>53 „ „ c. 155 ;</p> <p>54 „ „ c. 61 ;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1873	36 & 37 Vict., c. 91— <i>contd.</i>		<p>54 Geo. 3, c. 105 ;</p> <p>55 „ „ c. 64 ;</p> <p>„ „ „ c. 84 ;</p> <p>57 „ „ c. 53 ;</p> <p>59 „ „ c. 44 ;</p> <p>„ „ „ c. 54 ;</p> <p>„ „ „ c. 114 ;</p> <p>1 & 2 Geo. 4, c. 61 ;</p> <p>4 „ „ c. 71 ;</p> <p>„ „ „ c. 80 ;</p> <p>5 „ „ c. 67 ;</p> <p>„ „ „ c. 68 ;</p> <p>„ „ „ c. 108 ;</p> <p>„ „ „ c. 113 ;</p> <p>6 „ „ c. 85 ;</p> <p>„ „ „ c. 88 ;</p> <p>7 „ „ c. 4 ;</p> <p>„ „ „ c. 56 ;</p> <p>9 „ „ c. 33 ; and</p> <p>„ „ „ c. 74.</p>
1874	37 & 38 Vict., c. 85	Usual extent	<p>In the case of the following Acts, the repeals are declared to extend to the whole of Her Majesty's dominions, namely :—</p> <p>53 Geo. 3, c. 155 ;</p> <p>1 & 2 Geo. 4, c. 66 ;</p> <p>3 „ „ c. 96 ;</p> <p>„ „ „ c. 119 ;</p> <p>6 „ „ c. 59 ;</p> <p>„ „ „ c. 69 ;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1874	37 & 38 Vict., c. 35— <i>contd</i>		<p>6 Geo. 4, c. 85;</p> <p>" " " c. 88;</p> <p>7 " " c. 4;</p> <p>" " " c. 68;</p> <p>7 & 8 Geo. 4, c. 62;</p> <p>9 Geo. 4, c. 74;</p> <p>" " " c. 93;</p> <p>11 Geo. 4 & 1 Will. 4, c. 53;</p> <p>2 & 3 Will. 4, c. 78;</p> <p>" " " c. 117;</p> <p>" " " c. 125;</p> <p>3 & 4 " " c. 50;</p> <p>" " " c. 73;</p> <p>" " " c. 85;</p> <p>" " " c. 93;</p> <p>4 & 5 " " c. 7;</p> <p>" " " c. 65;</p> <p>5 & 6 " " c. 51;</p> <p>6 & 7 " " c. 16;</p> <p>" " " c. 17;</p> <p>" " " c. 53; and</p> <p>7 Will. 4 & 1 Vict., c. 70.</p>
"	37 & 38 Vict., c. 96	Usual extent.	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely:—</p> <p>1 & 2 Vict., c. 67;</p> <p>2 & 3 " c. 34;</p> <p>3 & 4 " c. 35;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1874	37 & 38 Vict., c. 96— <i>contd.</i>		<p>3 & 4 Vict., c. 37 ;</p> <p>„ „ c. 56 ;</p> <p>„ „ c. 78 ;</p> <p>„ „ c. 95 ;</p> <p>„ „ c. 96 ;</p> <p>5 & 6 „ c. 3 ;</p> <p>„ „ c. 4 ;</p> <p>„ „ c. 14 ;</p> <p>„ „ c. 17 ;</p> <p>„ „ c. 88 ;</p> <p>„ „ c. 120 ;</p> <p>6 & 7 „ c. 34 ;</p> <p>„ „ c. 63 ;</p> <p>„ „ c. 80 ;</p> <p>7 & 8 „ c. 17 ; and</p> <p>„ „ c. 40.</p>
1875	38 & 39 Vict., c. 66	Usual extent . . .	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :—</p> <p>9 Geo. 4, c. 83 ;</p> <p>2 & 3 Vict., c. 70</p> <p>3 & 4 „ c. 62 ;</p> <p>5 & 6 „ c. 61 ;</p> <p>„ „ c. 76 ;</p> <p>7 & 8 „ c. 72 ;</p> <p>„ „ c. 74 ;</p> <p>8 & 9 „ c. 30 ;</p> <p>„ „ c. 90 ;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1875	38 & 30 Vict., c. 66— <i>contd.</i>		<p>8 & 9 Vict., c. 95 ;</p> <p>9 & 10 „ c. 26 ;</p> <p>„ „ c. 42 ;</p> <p>„ „ c. 45 ;</p> <p>„ „ c. 82 ;</p> <p>„ „ c. 103 ;</p> <p>10 & 11 „ c. 44 ;</p> <p>„ „ c. 71 ;</p> <p>„ „ c. 112 ;</p> <p>11 & 12 „ c. 21 ;</p> <p>14 & 15 „ c. 40 ;</p> <p>15 & 16 „ c. 26 ;</p> <p>16 & 17 „ c. 4 ;</p> <p>„ „ c. 73 ;</p> <p>„ „ c. 107 ;</p> <p>„ „ c. 118 ;</p> <p>18 & 19 „ c. 3 ;</p> <p>„ „ c. 71 ;</p> <p>„ „ c. 96 ;</p> <p>„ „ c. 97 ;</p> <p>„ „ c. 107 ;</p> <p>„ „ c. 119 ;</p> <p>19 & 20 „ c. 75 ;</p> <p>„ „ c. 83 ;</p> <p>20 & 21 „ c. 62 ;</p> <p>21 & 22 „ c. 32 ;</p> <p>„ „ c. 96 ;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1875	38 & 39 Vict., c. 66— <i>concl'd.</i>		<p>22 Vict., c. 25 ;</p> <p>22 & 23 „ c. 12 ;</p> <p>„ „ c. 27 ;</p> <p>„ „ c. 37 ;</p> <p>23 & 24 „ c. 57 ;</p> <p>„ „ c. 89 ;</p> <p>24 & 25 „ c. 74 ;</p> <p>„ „ c. 80 ;</p> <p>25 & 26 „ c. 27 ;</p> <p>„ „ c. 48 ;</p> <p>26 & 27 „ c. 23 ;</p> <p>„ „ c. 35 ;</p> <p>„ „ c. 48 ;</p> <p>„ „ c. 51 ;</p> <p>„ „ c. 76 ;</p> <p>„ „ c. 121 ;</p> <p>27 & 28 „ c. 16 ;</p> <p>29 & 30 „ c. 104 ;</p> <p>„ „ c. 109 ; and</p> <p>31 & 32 „ c. 120.</p>
1876	39 & 40 Vict., c. 20	United Kingdom (there being no declaration as to extent).	
1878	41 & 42 Vict., c. 57	Ditto.	
„	„ „ c. 79	Usual extent	<p>In the case of the following Acts, the repeal is declared to extend to all Her Majesty's dominions, namely :—</p> <p>53 Geo. 3, c. 155 ;</p> <p>6 Geo. 4, c. 85 ;</p> <p>3 & 4 Vict., c. 90 ;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1878	41 & 42 Vict., 79— <i>contd.</i>		<p>7 & 8 Vict., c. 49 ;</p> <p>10 & 11 „ c. 85 ;</p> <p>11 & 12 „ c. 5 ;</p> <p>„ „ c. 21 ;</p> <p>„ „ c. 56 ;</p> <p>12 & 13 „ c. 48 ;</p> <p>„ „ c. 60 ;</p> <p>„ „ c. 96 ;</p> <p>13 & 14 „ c. 15 ;</p> <p>„ „ c. 59 ;</p> <p>16 & 17 „ c. 95 ;</p> <p>17 & 18 „ c. 77 ;</p> <p>18 & 19 „ c. 53 ;</p> <p>„ „ c. 93 ;</p> <p>21 & 22 „ c. 106 ;</p> <p>24 & 25 „ c. 67 ;</p> <p>„ „ c. 104 ;</p> <p>28 & 29 „ c. 5 ;</p> <p>„ „ c. 15 ;</p> <p>„ „ c. 17 ; and</p> <p>29 & 30 „ c. 67.</p>
1879	42 & 43 Vict., c. 24	United Kingdom (there being no declaration as to extent).	
„	„ „ c. 59*	Declared <i>not</i> to extend to any part of Her Majesty's dominions out of the United Kingdom.	
1881	44 & 45 Vict., c. 59†	Declared <i>not</i> to extend to Scotland or Ireland ; extends, therefore, only to England.	

* Short title—the Civil Procedure Acts Repeal Act, 1879.

† Short title—the Statute Law Revision and Civil Procedure Act, 1881.

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1883	46 & 47 Vict., c. 39	Usual extent . . .	In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :— 32 & 33 Vict., c. 10 ; " " c. 11 ; " " c. 29 ; " " c. 98 ; 33 & 34 " c. 3 ; " " c. 52 ; " " c. 59 ; " " c. 90 ; 34 & 35 " c. 62 ; 35 & 36 " c. 9 ; and 41 & 42 " c. 67.
"	" " c. 49*	Declared <i>not</i> to extend to Scotland or Ireland ; extends, therefore, to England only.	
1887	50 & 51 Vict., c. 59	Declared <i>not</i> to extend to repeal any enactment so far as the same may be in force out of the United Kingdom.	
1888	51 & 52 Vict., c. 3	Usual extent . . .	In <i>no</i> case is the repeal declared to extend to all Her Majesty's dominions.
"	" " c. 57	Ditto . . .	In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :— 6 Geo. 4, c. 59 ; " " c. 69 ; " " c. 78 ; " " c. 85 ; 7 " c. 52 ; 9 " c. 74 ;

* Short title—the Statute Law Revision and Civil Procedure Act, 1883.

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1888	51 & 52 Vict., c. 57— <i>contd.</i>		<p>9 Geo. 4, c. 83;</p> <p>11 Geo. 4 & 1 Will. 4, c. 39;</p> <p>1 Will. 4, c. 20;</p> <p>2 & 3 „ „ c. 51;</p> <p>3 & 4 „ „ c. 73;</p> <p>„ „ „ c. 93;</p> <p>„ „ „ c. 85;</p> <p>5 & 6 „ „ c. 52;</p> <p>7 Will. 4 & 1 Vict., c. 36;</p> <p>„ „ c. 47;</p> <p>1 & 2 Vict., c. 67;</p> <p>3 & 4 „ „ c. 35;</p> <p>„ „ c. 56;</p> <p>„ „ c. 78;</p> <p>5 & 6 „ „ c. 61;</p> <p>„ „ c. 76; and</p> <p>„ „ c. 120.</p>
1889	52 & 53 Vict., c. 24*	Usual extent . . .	In no case is the repeal declared to extend to all Her Majesty's dominions.
1890	53 & 54 Vict., c. 33	Ditto . . .	<p>In the following cases, the repeals are declared to extend to all Her Majesty's dominions, namely:—</p> <p>53 Geo. 3, c. 155;</p> <p>56 „ „ c. 82;</p> <p>1 & 2 Geo. 4, c. 66;</p> <p>3 & 4 „ „ c. 119;</p> <p>4 „ „ c. 71;</p> <p>„ „ „ c. 80;</p> <p>5 „ „ c. 67;</p> <p>6 „ „ c. 85;</p>

* Short title—the Master and Servant Act, 1889.

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1890	53 & 54 Vict., c. 33— <i>contd.</i>		<p>9 Geo. 4, c. 74 (Straits Settlements excepted in one instance);</p> <p>9 Geo. 4, c. 83;</p> <p>3 & 4 Will. 4, c. 85;</p> <p>5 & 6 „ „ c. 52; and</p> <p>„ „ „ c. 62.</p>
„	„ „ c. 51	Usual extent	<p>In the case of the following, the repeals are declared to extend to all Her Majesty's dominions namely:—</p> <p>3 & 4 Vict., c. 56;</p> <p>4 Geo. 4, c. 71;</p> <p>„ „ „ c. 80;</p> <p>3 & 4 Will. 4, c. 73;</p> <p>3 & 4 Vict., c. 62;</p> <p>5 & 6 „ „ c. 61; and</p> <p>„ „ „ c. 76.</p>
1891	54 & 55 Vict., c. 67	Ditto	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely:—</p> <p>3 & 4 Vict., c. 62;</p> <p>5 & 6 „ „ c. 61;</p> <p>6 & 7 „ „ c. 98;</p> <p>7 & 8 „ „ c. 74;</p> <p>8 & 9 „ „ c. 30;</p> <p>„ „ „ c. 90;</p> <p>9 & 10 „ „ c. 103;</p> <p>11 & 12 „ „ c. 21;</p> <p>12 & 13 „ „ c. 48;</p> <p>„ „ „ c. 66; and</p> <p>„ „ „ c. 96.</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1892	55 & 56 Vict., c. 19	Usual extent	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely:—</p> <p>9 Will. 3, c. 44 ;</p> <p>13 Geo. 3, c. 63 ;</p> <p>21 „ „ c. 70 ;</p> <p>33 „ „ c. 52 ;</p> <p>37 „ „ c. 142 ;</p> <p>39 & 40 Geo. 3, c. 79 ;</p> <p>54 „ „ c. 15 ;</p> <p>15 & 16 Vict., c. 72 ;</p> <p>16 & 17 „ c. 48 ;</p> <p>„ „ c. 49 ;</p> <p>„ „ c. 95 ;</p> <p>18 & 19 „ c. 55 ;</p> <p>20 & 21 „ c. 8 ;</p> <p>„ „ c. 52 ;</p> <p>„ „ c. 53 ;</p> <p>21 & 22 „ c. 3 ;</p> <p>„ „ c. 106 ;</p> <p>22 „ c. 11 ;</p> <p>22 & 23 „ c. 10 ;</p> <p>„ „ c. 13 ;</p> <p>23 & 24 „ c. 130 ;</p> <p>24 & 25 „ c. 54 ;</p> <p>„ „ c. 67 ; and</p> <p>„ „ c. 104.</p>
1893	56 & 57 Vict., c. 14	Ditto	<p>In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely:—</p> <p>15 & 16 Vict., c. 72 ;</p> <p>27 & 28 „ c. 77 ;</p>

Year.	No. and Chapter.	Territorial extent.	Repeals (if any) extending beyond the United Kingdom.
1893	56 & 57 Vict., c. 14— <i>contd.</i>	Usual extent . . .	28 & 29 Vict., c. 15 ; 29 & 30 „ c. 18 ; „ „ c. 74 ; 30 & 31 „ c. 3 ; and 31 & 32 „ c. 57.
„	„ „ c. 54	Ditto . . .	In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :— 5 & 6 Vict., c. 76 ; 13 & 14 „ c. 59 ; 18 & 19 „ c. 54 ; and 36 & 37 „ c. 6.
1894	57 & 58 Vict., c. 56*	Ditto . . .	In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :— 29 & 30 Vict., c. 67 ; „ „ c. 74 ; „ „ c. 104 ; 33 & 34 „ c. 66 ; 39 & 40 „ c. 47 ; and 44 & 45 „ c. 36.
1898	61 & 62 Vict., c. 22	Ditto . . .	In the case of the following Acts, the repeals are declared to extend to all Her Majesty's dominions, namely :— 39 & 40 Vict., c. 47 ; and 49 & 50 „ c. 36.

* S. 4 of this Act provides that in any revised edition of the Statutes published by authority the words "Enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows," or any words to the same effect occurring in any Act, may be omitted.

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